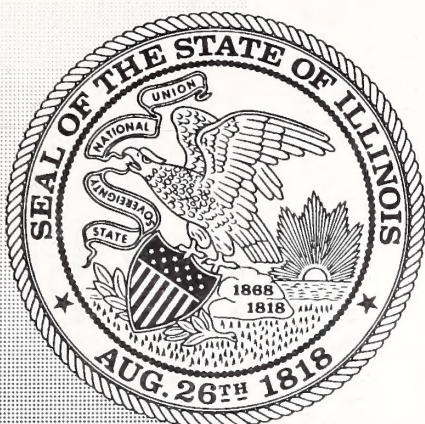


F1235
A21



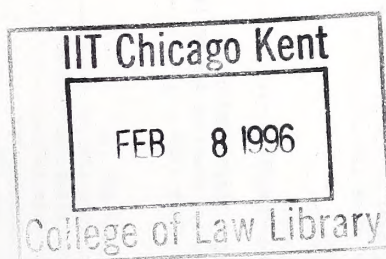
1996

Illinois Register

Rules of Governmental Agencies

Volume 20, Issue 05— February 02, 1996

Pages 1702 - 2277



Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017

published by
George H. Ryan
Secretary of State

TABLE OF CONTENTS
February 2, 1996 Volume 20, Issue 5

PROPOSED RULES

CAPITAL DEVELOPMENT BOARD	
Insurance And Surety Companies	
44 Ill. Adm. Code 1050, Repeal of	1702
NATURAL RESOURCES, DEPARTMENT OF	
Camping On Department Of Conservation Properties	
17 Ill. Adm. Code 130	1709

CORRECTIONS, DEPARTMENT OF

Rights And Privileges	
20 Ill. Adm. Code 525	1719

PROFESSIONAL REGULATION, DEPARTMENT OF

Illinois Architecture Practice Act Of 1989	
68 Ill. Adm. Code 1150	1737

SECRETARY OF STATE

Business Corporation Act	
14 Ill. Adm. Code 150	1750
General Not For Profit Corporations	
14 Ill. Adm. Code 160	1768
Limited Liability Company Act	
14 Ill. Adm. Code 178	1773
Revised Uniform Limited Partnership Act	
14 Ill. Adm. Code 170	1779
Uniform Commercial Code	
14 Ill. Adm. Code 180	1787

STUDENT ASSISTANCE COMMISSION, ILLINOIS

College Savings Bond Bonus Incentive Grant (BIG) Program	
23 Ill. Adm. Code 2771	1791
David A. Debolt Teacher Shortage Scholarship Program	
23 Ill. Adm. Code 2764	1796
Federal Family Education Loan Program (FFELP)	
23 Ill. Adm. Code 2720	1802
General Provisions	
23 Ill. Adm. Code 2700	1824
Illinois National Guard Grant Program	
23 Ill. Adm. Code 2730	1841
Illinois Special Education Teacher Tuition Waiver Program	
23 Ill. Adm. Code 2765	1848
Illinois Veteran Grant (IVG) Program	
23 Ill. Adm. Code 2733	1854
Limitation, Suspension And Termination Proceedings	
23 Ill. Adm. Code 2790	1860

Merit Recognition Scholarship (MRS) Program	
23 Ill. Adm. Code 2761	1869
Minority Teachers Of Illinois (MTI) Scholarship Program	
23 Ill. Adm. Code 2763	1875
Monetary Award Program (MAP)	
23 Ill. Adm. Code 2735	1881
Paul Douglas Teacher Scholarship Program	
23 Ill. Adm. Code 2762	1892
Robert C. Byrd Honors Scholarship Program	
23 Ill. Adm. Code 2755	1898
State Scholar Program	
23 Ill. Adm. Code 2760	1905
Student To Student (STS) Program Of Matching Grants	
23 Ill. Adm. Code 2770	1914

ADOPTED RULES

NATURAL RESOURCES, DEPARTMENT OF	
Administrative And Judicial Review	
62 Ill. Adm. Code 1847	1919
Areas Designated By Act Of Congress	
62 Ill. Adm. Code 1761	1935
Bonding And Insurance Requirements For Surface Coal Mining And Reclamation Operations	
62 Ill. Adm. Code 1800	1939
Civil Penalties	
62 Ill. Adm. Code 1845	1946
Department Inspections	
62 Ill. Adm. Code 1840	1949
General	
62 Ill. Adm. Code 1700	1956
General Definitions	
62 Ill. Adm. Code 1701	1962
General Rules Relating To Procedure And Practice	
62 Ill. Adm. Code 1848	1989
Permanent Program Performance Standards-- Underground Mining Operations	
62 Ill. Adm. Code 1817	1993
Permanent Program Performance Standards--Surface Mining Activities	
62 Ill. Adm. Code 1816	2027
Permit Applications--Minimum Requirements For Legal, Financial, Compliance, And Related Information	
62 Ill. Adm. Code 1778	2080
Requirements For Coal Exploration	
62 Ill. Adm. Code 1772	2084
Requirements For Permits And Permit Processing	
62 Ill. Adm. Code 1773	2090
Requirements For Permits For Special Categories Of Mining	
62 Ill. Adm. Code 1785	2107
Revision; Renewal; And Transfer, Assignment, Or Sale Of Permit Rights	
62 Ill. Adm. Code 1774	2118

Small Operator Assistance		
62 Ill. Adm. Code 1795	.....	2124
Special Permanent Program Performance Standards-- Operations On High Capability Lands		
62 Ill. Adm. Code 1825	.....	2130
State Enforcement		
62 Ill. Adm. Code 1843	.....	2136
Surface Mining Permit Application--Minimum Requirements For Reclamation And Operation Plan		
62 Ill. Adm. Code 1780	.....	2141
Surface Mining Permit Applications - Minimum Requirements For Information On Environmental Resources		
62 Ill. Adm. Code 1779	.....	2146
Training, Examination And Certification Of Blasters		
62 Ill. Adm. Code 1850	.....	2151
Underground Mining Permit Applications--Minimum Requirements For Information On Environmental Resources		
62 Ill. Adm. Code 1783	.....	2160
Underground Mining Permit Applications--Minimum Requirements For Reclamation And Operation Plan		
62 Ill. Adm. Code 1784	.....	2166
PUBLIC HEALTH, DEPARTMENT OF		
Food Service Sanitation Code		
77 Ill. Adm. Code 750	.....	2171
Retail Food Store Sanitation Code		
77 Ill. Adm. Code 760	.....	2201
PEREMPTORY RULES		
PUBLIC AID, DEPARTMENT OF		
Food Stamps		
89 Ill. Adm. Code 121	.....	2229
NOTICE OF PUBLIC HEARINGS		
CORRECTIONS, DEPARTMENT OF		
Secure Residential Youth Care Facilities		
20 Ill. Adm. Code 801	.....	2242
LABOR, DEPARTMENT OF		
Six Day Week Law		
56 Ill. Adm. Code 220	.....	2243
NOTICE OF REQUEST FOR EXPEDITED CORRECTIONS		
LIQUOR CONTROL COMMISSION, ILLINOIS		
The Illinois Liquor Control Commission		
11 Ill. Adm. Code 100	.....	2244
REGULATORY ACENDA		
HUMAN RIGHTS, DEPARTMENT OF		
Discrimination Involving Credit		
38 Ill. Adm. Code 800, et al.	.....	2248
NATURAL RESOURCES, DEPARTMENT OF		
Bonding And Insurance Requirements For Surface Coal Mining And Reclamation Operations		
62 Ill. Adm. Code 300, et al.	.....	2251
SECRETARY OF STATE		
Lobbyist Registration And Reports		
2 Ill. Adm. Code 560, et al.	.....	2253
TEACHERS' RETIREMENT SYSTEMS OF THE STATE OF ILLINOIS		
The Administration And Operation Of The Teachers' Retirement System		
80 Ill. Adm. Code 1650	.....	2267
JOINT COMMITTEE ON ADMINISTRATIVE RULES		
Second Notices Received	.....	2268
EXECUTIVE ORDERS AND PROCLAMATIONS		
PROCLAMATIONS		
96-001 Reverend Leroy Conkrite II Day	.....	2269
96-002 Orvetta M. Robinson Day	.....	2269
96-003 Pastor Joseph T. Ledwell Day	.....	2270
96-004 William R. Norwood Day	.....	2270
96-005 Mahomet-Seymour Marching Bulldogs Day	.....	2271
96-006 A Day for Angels: Angelman Syndrome Awareness Day	.....	2271
96-007 Chicago Veterinary Medical Association 100th Anniversary Week	.....	2272
96-008 Optians Month	.....	2272
96-009 Chicago R.E.A.C.H.	.....	2272
96-010 Project Red Ribbon	.....	2273
96-011 Arlena G. Brown Month	.....	2273
96-012 Young Professionals Week	.....	2274
96-013 Salem Children's Home Month	.....	2274
96-014 Patrick Arbor Day	.....	2274
96-015 Homewood Fire Department Day	.....	2274
96-016 University of Illinois College of Medicine at Rockford Commended	.....	2275
96-017 Earthquake Preparedness Week	.....	2276
96-018 Gunner Sergeant Mike B. Ruffner Day	.....	2276
ISSUES INDEX.....		I-1

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1996

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996	June 25, 1996	July 2, 1996	28	July 12, 1996
Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996	July 2, 1996	July 9, 1996	29	July 19, 1996
Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
Jan. 9, 1996	Jan. 16, 1996	4	Jan. 26, 1996	July 16, 1996	July 23, 1996	31	Aug. 2, 1996
Jan. 16, 1996	Jan. 23, 1996	5	Feb. 2, 1996	July 23, 1996	July 30, 1996	32	Aug. 9, 1996
Jan. 23, 1996	Jan. 30, 1996	6	Feb. 9, 1996	July 30, 1996	Aug. 6, 1996	33	Aug. 16, 1996
Jan. 30, 1996	Feb. 6, 1996	7	Feb. 16, 1996	Aug. 6, 1996	Aug. 13, 1996	34	Aug. 23, 1996
Feb. 6, 1996	Feb. 13, 1996	8	Feb. 23, 1996	Aug. 13, 1996	Aug. 20, 1996	35	Aug. 30, 1996
Feb. 13, 1996	Feb. 20, 1996	9	Mar. 1, 1996	Aug. 20, 1996	Aug. 27, 1996	36	Sept. 6, 1996
Feb. 20, 1996	Feb. 27, 1996	10	Mar. 8, 1996	Aug. 27, 1996	Sept. 3, 1996	37	Sept. 13, 1996
Feb. 27, 1996	Mar. 5, 1996	11	Mar. 15, 1996	Sept. 3, 1996	Sept. 10, 1996	38	Sept. 20, 1996
Mar. 5, 1996	Mar. 12, 1996	12	Mar. 22, 1996	Sept. 10, 1996	Sept. 17, 1996	39	Sept. 27, 1996
Mar. 12, 1996	Mar. 19, 1996	13	Mar. 29, 1996	Sept. 17, 1996	Sept. 24, 1996	40	Oct. 4, 1996
Mar. 19, 1996	Mar. 26, 1996	14	Apr. 5, 1996	Sept. 24, 1996	Oct. 1, 1996	41	Oct. 11, 1996
Mar. 26, 1996	Apr. 2, 1996	15	Apr. 12, 1996	Oct. 1, 1996	Oct. 8, 1996	42	Oct. 18, 1996
Apr. 2, 1996	Apr. 9, 1996	16	Apr. 19, 1996	Oct. 8, 1996	Oct. 15, 1996	43	Oct. 25, 1996
Apr. 9, 1996	Apr. 16, 1996	17	Apr. 26, 1996	Oct. 15, 1996	Oct. 22, 1996	44	Nov. 1, 1996
Apr. 16, 1996	Apr. 23, 1996	18	May 3, 1996	Oct. 22, 1996	Oct. 29, 1996	45	Nov. 8, 1996
Apr. 23, 1996	Apr. 30, 1996	19	May 10, 1996	Oct. 29, 1996	Nov. 4, 1996 (Mon.)	46	Nov. 15, 1996
Apr. 30, 1996	May 7, 1996	20	May 17, 1996	Nov. 4, 1996	Nov. 12, 1996	47	Nov. 22, 1996
May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
May 14, 1996	May 21, 1996	22	May 31, 1996	Nov. 19, 1996	Nov. 26, 1996	49	Dec. 6, 1996
May 21, 1996	May 28, 1996	23	June 7, 1996	Nov. 26, 1996	Dec. 3, 1996	50	Dec. 13, 1996
May 28, 1996	June 4, 1996	24	June 14, 1996	Dec. 3, 1996	Dec. 10, 1996	51	Dec. 20, 1996
June 4, 1996	June 11, 1996	25	June 21, 1996	Dec. 10, 1996	Dec. 17, 1996	52	Dec. 27, 1996
June 11, 1996	June 18, 1996	26	June 28, 1996	Dec. 17, 1996	Dec. 23, 1996 (Mon.)	1	Jan. 3, 1997
June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Insurance and Surety Companies

2) Code Citation: 44 Ill. Adm. Code 1050

3) Section Numbers: Proposed Action:

1050.110 Repeal
1050.112 Repeal
1050.130 Repeal
1050.140 Repeal
1050.510 Repeal
1050.520 Repeal
1050.530 Repeal
1050.540 Repeal
1050.550 Repeal

4) Statutory Authority: Implementing and authorized by Section 9.06 of the Capital Development Board Act (20 ILCS 3105/9.06).

5) A Complete Description of the Subjects and Issues Involved: Repealed rules will be replaced with contract provisions setting requirements for bonds and insurance.

6) Will this proposed repealer replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

11) Time, Place, and Manner in which interested persons may comment on this rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claire Gibson, Legal Counsel
Capital Development Board
3rd Floor, William G. Stratton Bldg.
Springfield, Illinois 62703
217/782-2864

12) Initial Regulatory Flexibility Analysis:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

A) Types of small businesses, small municipalities and not for profit corporation affected: Small bonding and insurance brokerage firms are indirectly affected. Small construction contractors may be affected.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the proposed repealer begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

TITLE 41: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 1050

INSURANCE AND SURETY COMPANIES (REPEALED)

SUBPART A: PREQUALIFICATION

Section
1050.110 Prequalification of Surety Companies
1050.120 Prequalification of Insurance Companies
1050.130 Reinsurer
1050.140 Waiver of Prequalification Requirements

SUBPART B: SUSPENSION

Section
1050.510 Suspension
1050.520 Suspension procedures
1050.530 Duration of Suspension
1050.540 Suspension Proceeding
1050.550 Severability

AUTHORITY: Implementing and authorized by Section 9.06 of the Capital Development Board Act [20 ILCS 3105/9.06].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1920, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20284, effective October 1, 1984; amended at 9 Ill. Reg. 17317, effective October 29, 1985; amended at 12 Ill. Reg. 9856, effective May 27, 1988; amended at 12 Ill. Reg. 20441, effective November 29, 1988; repealed at 20 Ill. Reg. _____, effective _____.

SUBPART A: PREQUALIFICATION

Section 1050.110 Prequalification of Surety Companies

A surety company must be prequalified with the Capital Development Board (Board) to be an acceptable source of bonds required by Board contracts. A surety company shall be deemed prequalified and an acceptable source for bonds required by Board Contracts if the surety company meets the requirements for a Certificate of Authority (31 CFR 223.1 et seq.) in effect as of 15 April 1982 and if the surety company is listed in the Department of Treasury Circular 570 or if it has a policyholder's rating of B or better and a financial rating of not less than Class V by A.B. Best Company (1987). These standards do not

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

contain any later amendments or editions.

(Source: Amended at 12 Ill. Reg. 20441, effective November 29, 1988)

Section 1050.120 Prequalification of Insurance Companies

a) An insurance company must be prequalified with the Board for its policies to be an acceptable source for insurance required by Board contracts. Only those insurance companies duly authorized by the Illinois Department of Insurance to transact business in the State of Illinois may be prequalified. Only those insurance companies having a sound financial base and performance record shall be acceptable. The factors considered by the Board in determining an insurance company's prequalification include:

- 1) stability of the company's income;
- 2) ratio of assets to liabilities;
- 3) a policy holder's rating of B or better by A. B. Best Company (1987, this standard does not contain any later amendments or editions) and a financial rating of not less than Class V;
- 4) competence in underwriting;
- 5) soundness of the company's investments including balanced risks, liquidity and diversification.

b) Risk Retention Groups will be an acceptable source for insurance required by Board contracts when the risk retention group is prequalified with the Board. The factors considered by the Board in determining a risk retention group's prequalification include:

- 1) duly authorized by the Illinois Department of Insurance to transact business in the State of Illinois;
- 2) organization and compliance by the risk retention group in conformity with all laws and regulations governing risk retention groups. The risk retention group may be organized and operated under either Illinois or Federal law.

c) Lloyds of London will be an acceptable source for insurance required by Board contracts when prequalified with the Board. The factors considered by the Board in determining Lloyds of London's prequalification include:

- 1) a current Certificate of Authority issued by the Director of the Illinois Department of Insurance;
- 2) compliance with the requirements of Sections 86 through 107 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 698 through 719).

(Source: Amended at 12 Ill. Reg. 20441, effective November 29, 1988)

Section 1050.130 Reinsurer

An insurer's policy will be acceptable regardless of it's failure to meet the criteria for prequalification set forth in Section 1050.120 if the insurance

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

company furnishes a bond guarantee or policy containing a provision (commonly referred to as a "cut-thru" endorsement) giving all claimants thereunder a direct right of recovery against the insurance company's reinsurer, provided that such surety/ guarantor or reinsurer meets the criteria for prequalification set forth in Section 1050.120.

(Source: Amended at 8 Ill. Reg. 20284, effective October 1, 1984)

Section 1050.140 Waiver of Prequalification Requirements

The Board, upon the recommendation of the Executive Director, may waive the prequalification requirements for surety and insurance companies in such cases where the criteria create an extreme hardship on a contractor or contractors desirous of submitting a bid or obtaining an Authorization to Proceed on a CDB project. The Board will consider the following factors in making the waiver determination:

- the availability of bonds and insurance policies in the market place for the particular risks;
- the contractor's good faith efforts to obtain coverage from prequalified firms prior to bid, as evidenced by the submission of documentation indicating applications for the necessary coverage were made and denied;
- the availability of other methods such as but not limited to letters of credit or similar secured financial instruments to guarantee the performance of the surety and insurance companies;
- the best interests of the State of Illinois as determined from factors such as, but not limited to, monetary savings, earlier completion of the project or policy provisions, not required under contracts with the Board, that are favorable to the State.

(Source: Added at 12 Ill. Reg. 20441, effective November 29, 1988)

SUBPART B: SUSPENSION

Section 1050.510 Suspension

Upon its determination that an insurer or surety company has not acted in accordance with the conditions of its policy or bond, the Board shall initiate proceedings to suspend the insurer's or surety company's prequalification for a period not in excess of one year. Conduct which shall form the basis of the Board's decision to initiate suspension proceedings shall include, but not be limited to, any of the following:

- Failure of the insurance or surety company to continue to meet the requirements set forth in Sections 1050.110 or 1050.120;
- Failure of the insurance or surety company to comply with its obligations under a policy or bond. Noncompliance would include, but not be limited to, failure to pay meritorious claims promptly after a reasonable period of time in which to determine the validity of a

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

- claim;
- The insurance or surety company or its officers have violated state or federal laws prohibiting bribery, embezzlement, fraud, theft or other acts which demonstrate a lack of business responsibility. Violation of such laws shall be evidenced by a plea of guilty or nolo contendere or conviction by a court of competent jurisdiction;

- The insurance or surety company has not diligently fulfilled its obligations with respect to causing the remaining work to be done promptly when the surety company has elected to have a completing contractor perform such work in connection with a construction contract;

- The insurance or surety company has been suspended by another state agency for acts or omissions for which the Board would suspend the insurance or surety company.

(Source: Amended at 9 Ill. Reg. 17317, effective October 29, 1985)

Section 1050.520 Suspension Procedures

When an insurance or surety company fails to adhere to any of the Rules or procedures of the Board or acts in an irresponsible manner on a Board project, and such acts or omissions jeopardize the interests of the State of Illinois in responsible solicitation, executive and administration of public contracts, proceedings to suspend the insurance or surety company may be initiated by the Board. The Board's decision to initiate suspension proceedings shall be based on the factors set forth in Section 1050.510. Suspension proceedings shall be conducted according to the requirements of 71 Ill. Adm. Code 100. Suspension shall be for a period not in excess of one (1) year.

(Source: Amended at 9 Ill. Reg. 17317, effective October 29, 1985)

Section 1050.530 Duration of Suspension

Suspension shall be for a period not to exceed one year. Factors considered in determining the duration of the suspension shall include, but not be limited to:

- the nature and gravity of the act or omission that was the basis of the suspension;
- the length of suspension imposed on the insurance or surety company by another State agency.

(Source: Added at 8 Ill. Reg. 20284, effective October 1, 1984)

Section 1050.540 Suspension Proceeding

Proceedings to suspend insurance and surety companies shall be conducted in accordance with 71 Ill. Adm. Code 100.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED REPEALER

(Source: Added at 8 Ill. Reg. 20284, effective October 1, 1984)

Section 1050.550 Severability

If any Section, sentence or clause of this Part is for any reason held invalid or unconstitutional, the validity of the remaining portions of this Part shall not be affected.

(Source: Added at 8 Ill. Reg. 20284, effective October 1, 1984)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Camping on Department of Conservation Properties

2) Code Citation: 17 Ill. Adm. Code 130

3) Section Numbers:
 130.20 Proposed Action:
 Amendments
 130.50 Amendments
 130.60 Amendments
 130.70 Amendments
 130.90 Amendments
 130.135 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1, 4(1), and 4(5) of the State Parks Act (20 ILCS 835-1, 4(1) and 4(5)), and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois (20 ILCS 805/63a23 and 63a28).

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to change references to the Department of Conservation to the Department of Natural Resources; to reset rates and simplify bookkeeping procedures; allow the Department to charge for walk-in campsites that have access to showers; and eliminate problems of distinguishing between youth and adult groups at Dixon Springs and Pere Marquette by charging one rate for all.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
 Department of Natural Resources
 524 S. Second Street
 Springfield, Illinois 62701-1787
 217/782-1809

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: None.
- B) Reporting, bookkeeping or other procedures required for compliance: None.
- C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: January 1995

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF CONSERVATION
SUBCHAPTER a: LANDS AND HISTORIC SITES

PART 130

CAMPING ON DEPARTMENT OF NATURAL RESOURCES CONSERVATION PROPERTIES

Section	Location
130.10	Purpose of Campground
130.20	Classification of Camps by Equipment Used - Definitions
130.30	Definition of a Camp
130.40	Registrations
130.50	Permits, Extensions and Time Limits
130.60	Fees and Charges
130.70	Refunds
130.80	Check-in and Check-out Times
130.90	Unoccupied Camps
130.100	Vehicles per Camp (Refer to 17 Ill. Adm. Code Section 130.30)
130.110	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.120	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.130	Campground Host Program
130.135	Use of Campground
130.140	Eviction
130.150	

AUTHORITY: Implementing and authorized by Sections 1, 4(1), and 4(5) of the State Parks Act [20 ILCS 835/1, 4(1) and 4(5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].

SOURCE: Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; emergency amendment at 5 Ill. Reg. 5707, effective June 1, 1981 for a maximum of 150 days; codified at 5 Ill. Reg. 10623; amended at 5 Ill. Reg. 14568, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 13244, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. 6462, effective April 28, 1995; amended at 20 Ill. Reg. _____, effective _____.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

Section 130.20 Purpose of Campground

Campgrounds on lands managed by the Department of Natural Resources are established for the convenience and enjoyment of outdoor recreation by the visiting public. Illinois Department of Natural Resources' ~~conservation~~ campgrounds are not places for permanent or semi-permanent residences, bases for operations of a business, or facilities for non-camper residences.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.50 Registrations

- a) A permit will be issued and fees collected at the time the camp is established or as soon as possible thereafter (see Sections 130.70 and 130.80).
- b) The camping attendant has the authority to assign sites.
- c) A responsible adult (18 years of age or older) from the camping party must register for the party and thereby acknowledge compliance to the rules and regulations of the park for the party.
- d) Curfew: the provisions of Section 1 of the Child Curfew Act [720 ILCS 555.1] with reference to curfew for persons under the age of 17 years are in effect on Department of Natural Resources' ~~conservation~~ properties.
- e) The camp shelter or any other camping equipment shall not be brought into the park prior to the arrival of the camping party.
- f) No camping equipment shall be placed on any campground site while that site is occupied by another camping party. A person acquiring a permit must have camp shelter at the time of registration and must occupy the site at that time.
- g) In "emergency situations", the camping attendant may designate an area and charge a fee commensurate with facilities provided (see Section 130.70).
- h) Reservations will be accepted at selected sites offering this service. An additional \$5.00 non-refundable fee must be submitted for each site reserved.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.60 Permits, Extensions and Time Limits

- a) A camp permit may be issued for a period not to exceed 14 consecutive nights between the dates of May 1 through September 30. Persons are eligible to camp at a specific Department of Natural Resources' ~~conservation~~ facility for a maximum of 14 nights in a 30 day period between the dates of May 1 through September 30. The 30 day period

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

starts from the first day the person actually obtains a bona fide camping permit and the camping equipment involved is subject to these limitations also. From October 1 through April 30, a camping permit may be issued for an unlimited number of nights during this time period.

- b) Exceptions to the above time limit may be made in the following instance: In bona fide emergency cases involving serious illness or accident which makes compliance with the rules impossible and only for the duration of the emergency - the burden of proof is on the permittee and the Site Superintendent should be satisfied by investigation or inquiry that facts in the case warrant consideration before granting an extension.
- c) During periods when a vacancy occurs in the reservation schedule at the Pere Marquette group camps, day use shall be allowed during a twelve-hour period beginning at 9:00 a.m. and ending at 3 p.m. Reservations will be made by application to the site superintendent. (Application requirements: name of organization, address, number of campers, person in charge, phone number, and age of camper).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Natural Resources' ~~conservation~~ and the site identified. Camping fees vary in accordance with the degree of campground development and type of facilities available effective May 11, 1992 as follows:
 - 1) Spring - Summer Camping (May 1 through September 30)
 - A) Class A Sites: Camping fee of \$8.00 per night per site, \$3.00 utility fee. Sites having availability to showers, electricity and vehicular access.
 - B) Class B-E Sites: Camping fee of \$7.00 per night per site, \$3.00 utility fee. Sites having availability to electricity and vehicular access.
 - C) Class B-S Sites: Camping fee of \$8.00 per night per site. Sites having availability to showers and vehicular access.
 - D) Class C Sites: Camping fee of \$7.00 per night per site. Sites having vehicular access or tent ~~camp/primitive~~ sites (walk-in or backpack) having availability to showers.
 - E) Class D Sites: Camping fee of \$6.00 per night per site. Tent camping or primitive sites (walk-in or backpack) with no vehicular access.
 - F) Youth Group Camping: \$1.00 per person, minimum daily camping fee of \$10.00.
 - G) Adult Group Camping: \$3.00 per person, minimum daily

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- camping fee of \$30.00.
- H) Each ~~member~~ member of an organized youth group utilizing facilities furnished at Dixon Springs State Park and Pere Marquette State Park shall pay a fee of \$30.00 per night or \$4.00 per night ~~for each person in the group~~ for each person in the group. At Dixon Springs, a deposit of \$95.00 per youth group and \$10.00 per adult group will be required before confirmation of a reservation. At Pere Marquette, a deposit of \$75.00 per youth group and \$10.00 per adult group will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. Fees for day use of the group camps at Dixon Springs and Pere Marquette shall be \$9.00 per day for youth groups and \$15.00 per day for adult groups.
- I) Rent-A-Camp Sites will be made available at designated state parks and recreational areas throughout the department's statewide system. These designated areas will provide, at additional fees of \$8.00 and \$12.00 per night, one large tent (approximately 10' x 13') or one extra large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either four or eight sleeping cots per large tent or eight or 16 sleeping cots per extra large tent. The total overnight fee for a rent-a-camp will be based on the basic fees given of \$8.00 or \$12.00 per night in addition to the fee for the class of the camping site A through D on which the rent-a-camps are located, as follows:
- Rent-A-Camp at Class A Sites:
\$16.00 or \$20.00 plus \$3.00 utility fee per night per site at all sites having availability to showers, electricity and vehicular access.
 - Rent-A-Camp at Class B-E Sites:
\$15.00 or \$19.00 plus \$3.00 utility fee per night per site at all sites having availability to electricity and vehicular access.
 - Rent-A-Camp as Class B-S Sites: \$16.00 or \$20.00 per night per site at all sites having availability to showers and vehicular access.
 - Rent-A-Camp at Class C Sites:
\$15.00 or \$19.00 per night per site at all sites having vehicular access.
 - Rent-A-Camp at Class D Sites:
\$14.00 or \$18.00 per night per site at all sites having tent camping or primitive sites (walk-in or backpack) with no vehicular access.
- J) A \$5.00 per campsite non-refundable fee must be remitted at those facilities offering reservation services. This fee applies to reservations for group camp sites as well as

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

individual site reservations.

- 2) Fall - Winter Camping (October 1 through April 30)
 - A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
 - B) When cold weather requires closing down buildings and shutting off water in Class A campgrounds, the fee shall be reduced commensurate with the services and facilities available for use.
 - C) The fee for primitive campsites shall be \$6.00 per site. When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.
- b) Exceptions: Employees, Concessionaires, and Special Legislation
 - 1) Except for temporary employees of the Department of Natural Resources ~~concessionaires~~ who qualify and are placed in the campground host program at approved camping sites, employees of the Department of Natural Resources ~~concessionaires~~ or any other state agency, regardless of their official status, will be required to pay the established camping fee.
 - 2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.
 - 3) An Illinois resident age 62 or older, or a person who has a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] or a disabled veteran, or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act [20 ILCS 2805/5], is entitled to the following camping fee provisions, upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other members must be registered and pay the regular camping fee for the facilities provided.
 - A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday or Thursday, at Class A and B sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.
 - B) Illinois residents who have a Class 2 disability and present a current Illinois Disabled Person Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class A and B sites on any Monday, Tuesday, Wednesday, or Thursday, but must pay the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

entire established camping fee for any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites.

- C) An Illinois resident who is a disabled veteran, or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (see 20 ILCS 2305/5).[†]

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.90 Check-in and Check-out Times

- a) Check-in times are normally from 7:00 a.m. until 10:00 p.m. Late check-in will be allowed providing camping space is available, when site staff is available or to help avert emergencies.

- b) Check-out time is 3:00 p.m.

- 1) If a camper has checked out and desires to remain in the area for other purposes after the check-out time, he must break camp and move from the campground.
- 2) The camper shall remove all personally owned camping equipment from the campground at the time the camper leaves.
- 3) Failure to remove camping equipment by 3:00 p.m. without specific authorization by Department of Natural Resources' Conservation staff shall obligate the camper to pay an additional night's fees.[†] The camper may elect to stay the additional night if such use does not violate time limits and if space is available.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.135 Campground Host Program

- a) Purpose of host - The host provides a service to Illinois State Park and Historic Site visitors and encourages compliance with park rules and regulations.

- b) Pertinent information and qualifications

- 1) The Department will compensate hosts \$1 per day for the days hosts[†] work, and will provide free camping privileges while performing duties in the campground.
- 2) The host must provide camping equipment. Some campgrounds do not have full hook-ups, so self-contained equipment is advisable. CB radio is optional.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 3) A host shall have camping experience.
- 4) A host shall serve for a minimum of four[†] 4 weeks.
- 5) Illinois residents will be given first priority for host positions.

- 6) A host shall have a valid driver's license.

- 7) A host shall be at least 21 years of age.

- 8) A host shall be available in the park to assist visitors thirty-five[†] 35 hours per week, usually over a five[†] 5 day period. Weekends and holidays are mandatory days for duty in the program.

- 9) A host shall be on duty and work during all kinds of weather.

c) Location of host campgrounds

- 1) Designated host campground sites will vary, but will be represented throughout the statewide park and recreation system.
- 2) A current listing of designated host campground sites will be provided with the application.

d) Number of hosts per park

An individual or couple may act as hosts[†]. Most parks have one campsite designated and a few larger parks may have more campsites.

e) Duties and responsibilities of a host

- 1) A host shall be a visible representative of the Department with knowledge of rules and regulations.

- 2) A host shall be informed about the park setting and activities available in the area.

- 3) A host shall greet visitors, help them get settled, answer questions, receive comments, pass out publications, and collect campground fees.

- 4) A host shall be observant for activities within the campground that require immediate attention by the staff or law enforcement, and contact help when emergencies occur. (A host is not required to enforce rules or perform major maintenance repairs.)

- 5) A host shall replenish restroom supplies when the park staff are not present.

- 6) A host shall promote care of the park by keeping a clean campsite and performing minor maintenance tasks such as picking up litter, etc.

f) How to apply

- 1) Interested persons may obtain a campground host application from a Department office or write:

Illinois Department of Natural Resources Conservation, Campground Host Coordinator, 524 South Second Street, Lincoln Tower Plaza Building, Springfield, Illinois 62706.

- 2) Interested persons may complete the application and return it to the above address.

g) When to apply

- 1) Applications are accepted year round and filled as positions open. If a position is open, applicants[†] will be contacted for an interview.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 2) Recruitment for the summer season occurs from March to June.
- h) Hiring campground host and/or hostess
- 1) The Site Superintendent at the site designated for the host campground program shall review the host and/or hostess applications, interview each applicant, and hire the most suitable candidate for this position.
 - 2) All persons considered must be 21 years of age or older, possess a valid driver's license, and have camping experience and knowledge. Other qualifications to be taken into consideration in the evaluation of applicants shall include, but not be limited to, the following:
 - A) Previous experience in handling financial transactions, including the making of change, the proper safekeeping of cash, and recording all such transactions.
 - B) Previous experience in maintenance and report work.
 - C) The capability of positive communication with campers, and a willingness to deal with any problems which might arise among campers or between campers and site management.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Rights and Privileges
- 2) Code Citation: 20 Ill. Adm. Code 525

- 3) Section Numbers:

525.10	Amended
525.15	Amended
525.20	Amended
525.30	Amended
525.40	Amended
525.50	Amended
525.60	Amended
525.100	Amended
525.110	Amended
525.115	Amended
525.120	Amended
525.130	Amended
525.140	Amended
525.150	Amended
525.300	Amended
525.305	Amended
525.310	Amended

- 4) Statutory Authority: Implementing and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections (730 ILCS 5/3-2-2, 3-7-1, and 3-7-24).

- 5) A Complete Description of the Subjects and Issues Involved: Visitation procedures have been updated and clarified, including attorney and clergy visits, religious headgear of visitors, and review of permanent visitor restrictions. The Office of Advocacy Services has been removed from the list of incoming and outgoing privileged mail as this office no longer exists. Provisions have been added to Section 525.130 to provide for outgoing privileged mail to be inspected for dangerous contraband through the use of x-ray, fluoroscope, or other similar device and provides for such mail to be opened in the presence of the committed person, absent an emergency, where there is reasonable suspicion that the mail contains dangerous contraband. Section 525.140(k) is being amended to reference typewriters in general, rather than specifying manual typewriters. Procedures regarding telephone calls have been updated. The rule regarding marriage of committed persons is being updated to delete references to blood tests as these are no longer required and to delete reference to home and family furloughs for persons committed to the Adult Division as the Department does not grant such furloughs. Minor language clarifications and corrections have been made and gender specific language has been updated to include females.

- 6) Will this proposed rulemaking replace any emergency rule currently in

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

effect? No

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice Period which commences on the issue date of this publication of the *Illinois Register* to:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Phone: (217) 522-2666, extension 2082

All written comments received after 45 days from the date of this publication will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER 1: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 525

RIGHTS AND PRIVILEGES

SUBPART A: VISITATION

Section

525.10	Applicability
525.12	Definitions
525.15	Responsibilities
525.20	Visiting Privileges
525.30	Clergy Visitation
525.40	Attorney Visitation - Adult and Community Services Divisions
525.50	Attorney Visitation - Juvenile Division (Court Agreement)
525.60	Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

Section

525.100	Applicability
525.110	Definitions
525.115	Responsibilities
525.120	Processing of Mail
525.130	Outgoing Mail
525.140	Incoming Mail
525.150	Telephone Privileges

SUBPART C: PUBLICATIONS

Section

525.200	Applicability
525.202	Definitions
525.205	Responsibilities
525.210	General Guidelines
525.220	Publications Review Committee
525.230	Appeal Process for Non-approved Publications

SUBPART D: MARRIAGE OF COMMITTED PERSONS

Section

525.300	Applicability
525.302	Definitions
525.305	Responsibilities
525.310	Request for Permission to Marry

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7 and 3-13-3 of the Unified Code of Corrections (730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7, and 3-13-3) and Section 1-3 of the Juvenile Court Act of 1987 (705 ILCS 405/1-3) and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections (730 ILCS 5/3-2-2, 3-7-1, and 3-7-4). Subparts A and C are also implementing Consent Decrees (Tillman vs. Rowe, #77 C 1003, N.D. Ill., 1977 and Green vs. Sielaff, #71 C 1403, N.D. Ill., 1973 and amended 1976).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 3664, effective July 1, 1989; amended at 14 Ill. Reg. 5114, effective April 1, 1990; amended at 14 Ill. Reg. 19875, effective December 1, 1990; emergency amendment at 16 Ill. Reg. 3583, effective February 20, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10499, effective July 1, 1992; peremptory amendment at 17 Ill. Reg. 1666, effective January 22, 1993; expedited correction at 17 Ill. Reg. 11933, effective January 22, 1993; peremptory amendment at 17 Ill. Reg. 8069, effective May 27, 1993; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: VISITATION

Section 525.10 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions of the Department of Corrections.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 525.15 Responsibilities

- a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 525.20 Visiting Privileges

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

a) The Chief Administrative Officer of each correctional facility shall establish regular visiting hours.

1) All rules and regulations pertaining to visiting shall be posted and made available to visitors and committed persons.

2) Visitors who travel great distances to visit a committed person may request extended visits. These requests should be submitted sufficiently in advance to the Chief Administrative Officer for consideration.

3) Visitors shall be subject to search in accordance with 20 Ill. Adm. Code 501.220.

4) Visitors may be permitted to wear religious headgear if:

A) There are no safety or security concerns; and

B) The headgear has been removed and thoroughly searched; and

C) The visitor has indicated that the headgear has religious significance; and

D) The headgear is a kufi, yarmulke, turban, habit, or veil; or

E) A written request to wear headgear other than those listed in subsection (a)(4)(D) of this Section was submitted to the Chief Administrative Officer at least ten days prior to the visit and the Chief Administrative Officer approved the request. Failure to submit a timely request shall result in denial of the request.

b) At the time of admission to a reception and classification center, a committed person shall submit a list of proposed visitors to designated facility staff. Persons may be denied permission to visit based on reasons which are reasonably related to legitimate penological concerns. A waiting list of persons approved by the Chief Administrative Officer to visit shall be established after verification review and approval by the Chief Administrative Officer. Visitors must be approved in order to visit.

1) Department staff may interview or request background information from potential visitors to determine whether the individual would pose a threat to the safety or security of the facility or any person or to the order of the facility security or safety of the facility staff, committed persons or other persons.

2) Persons 12 years of age or older must be on the approved list in order to visit.

A) A person 12 years through 16 years of age who is not a member of the committed person's immediate family may be on the approved list only with the written consent of the person's his parent or guardian. Immediate family shall include children, brothers, sisters, grandchildren, whether step, adopted, half, or whole, and spouses.

B) When visiting, persons under the age of 17 years must be accompanied by a person who is 17 years of age or older and who is an approved visitor, unless prior written approval has been granted by the Chief Administrative Officer.

3) Persons under 12 years of age need not be on the approved list.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

However, such persons may visit only:

- A) When accompanied by a parent or guardian who is an approved visitor;
 - B) When prior written consent has been given by a parent or guardian who is in the free community for the child to visit when accompanied by the person(s) designated in writing who is an approved visitor and who is at least 17 years of age; or
 - C) As otherwise approved by the Chief Administrative Officer.
- 4) In determining whether an exception shall be granted pursuant to subsections (1)(2)(B) and (b)(3)(C), the Chief Administrative Officer may consider, among other factors, the person's age, emancipation, and relationship to the committed person, whether a legal guardian has been appointed for the person, the inability of an approved visitor to accompany the person, and any applicable court order.
- 5) A person who has been convicted of a criminal offense or who has criminal charges pending, including, but not limited to, a person on bond, parole, mandatory supervised release, or probation or an ex-offender, may visit a committed person only with the written approval of the Chief Administrative Officer. In determining whether to approve or deny a request, the Chief Administrative Officer may consider, among other matters, the following:

- A) The nature, and seriousness, and the date of commission of the offense.
 - B) The person's criminal history.
 - C) The person's relationship to the committed person.
 - D) The date of discharge from parole, supervision, or probation or of completion of service of a term of incarceration.
- 6) The visiting list of a committed person may be amended at any time by the Chief Administrative Officer in accordance with this Subpart.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.30 Clergy Visitation

Clergy and religious leaders ~~from recognized religious groups may visit any committed persons~~ person during regularly scheduled visiting hours and during other hours as approved by the Chief Administrative Officer subject to safety and security concerns.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.40 Attorney Visitation - Adult and Community Services Divisions

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- a) Licensed attorneys and any investigators, law students, or paralegals working under their supervision may visit a committed person during regularly scheduled visiting hours unless permission has been granted by the Chief Administrative Officer to visit during other hours.
- b) Investigators, law students, or paralegals shall be required to present a written statement from a registered attorney indicating that they are working under the supervision of an attorney, and indicating the names of the committed persons with whom they are authorized to visit.
- c) Attorneys or those working under their supervision are requested to notify the Chief Administrative Officer of the designated time and date of the visit at least two days in advance of the visit in order to make special visiting room arrangements.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.50 Attorney Visitation - Juvenile Division (Court Agreement)

- a) To assure that persons committed to the Juvenile Division may privately confer in person with attorneys of their choice or with attorneys retained by their parents or with attorneys appointed by courts, the following procedures are established:

- 1) Attorneys may routinely visit committed persons between the hours of 9:00 a.m. and 5:00 p.m. daily, unless other arrangements have been made with the Chief Administrative Officer of the facility.
 - A) Except in emergencies, at least 24 hours before the visit, attorneys are requested to notify an employee of the facility designated by the Chief Administrative Officer to arrange visitations, the date and time, at which they wish to confer with the committed person.
 - B) The designated employee will immediately confirm the arrangements.
- 2) The visiting attorneys may establish that they are attorneys registered with the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (130 East Randolph Suite 1500 203 North Wacker Avenue, Chicago, Illinois 60601) by exhibiting their Commission Identification card.
 - A) If no card is available, the facility shall call the Commission (800.825-8625 or 312.565-2600 312.946-3699) to determine if the attorneys are registered.
 - B) Visiting attorneys not listed with the Commission or those practicing out of state shall be approved by the Chief Administrative Officer only after it has been established that they are licensed to practice law.
- 3) Any time prior to any attorney-committed person conference, the committed person shall sign an authorization, which The authorization shall be filed in the committed person's file master

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

record file and shall be substantially in the following form:

I, (name of committed person), hereby
authorize (name of attorney), Attorney at
Law, to represent me as my attorney and advocate.

Date: _____

Signature _____

- A) In the event that the committed person's written authorization is not submitted for the by-the attorney, the designee employee will immediately confer with the committed person for the purpose of obtaining written authorization.
- B) In lieu of the above authorization, any time prior to the visit, an attorney may present a copy of a court order appointing the attorney him to represent the committed person.
- b) The aforementioned shall apply also to law students, paralegals, or attorneys' agents to the extent that such persons present a written statement from registered attorneys indicating that the person is working under the supervision of an attorney.
- c) Before this Section of the Subpart may be modified, the Department legal staff shall be consulted. This Section was promulgated pursuant to the settlement of litigation by order of the court. It may not be modified without the approval of the court.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.60 Restriction of Visitors

- a) The Chief Administrative Officer may limit the frequency and duration of visits in accordance with the availability of space and staff.
- b) The Chief Administrative Officer may limit the number of persons allowed per visit in accordance with considerations of space, time, and security.
- c) Visiting privileges may be temporarily suspended by the Chief Administrative Officer during an institutional emergency or lockdown and for a reasonable time thereafter, upon the approval of the Director.
- d) Visitors and committed persons shall not be permitted to exchange any item during a visit, except with prior approval of the Chief Administrative Officer.
- e) The Chief Administrative Officer may deny, suspend, or restrict visiting privileges based, among other matters, upon the following:
- 1) Security and safety requirements;

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- 2) Space availability;
- 3) Disruptive conduct of the committed person or visitor;
- 4) Abuse of the visiting privileges by the committed person or visitor; or
- 5) Violation of State or Federal laws or departmental rules by the committed person or visitor.
- f) Any of the following actions on the part of a visitor may result in a temporary restriction of up to six months:
 - 1) Disruptive conduct of a minor nature;
 - 2) Disobeying an order or posted rule;
 - 3) Refusal to submit to search;
 - 5021C Possession of drugs when the visitor has demonstrated there was no intent to conceal or and/or introduce drugs into the facility.
 - 5) Possession of alcohol when the visitor has demonstrated there was no intent to conceal or and/or introduce alcohol into the facility.
 - 6) Being under the influence of alcohol or drugs.
 - 7) Possession of other contraband as defined under State, Federal, or local laws or other departmental rules not specifically outlined in this Subpart.
- g) Any of the following actions on the part of a visitor may result in a permanent restriction:
 - 1) Assaultive behavior on any individual;
 - 2) Sexual misconduct;
 - 3) Possession of weapons;
 - 4) Possession of drugs or drug paraphernalia ~~unless--the--visitor demonstrates--he--did--not--intend--to--conceal--and/or--introduce--drugs--or--drug--paraphernalia--into--the--facility.~~
 - 5) Unauthorized possession of money;
 - 6) Possession of escape paraphernalia;
 - 7) Possession of alcohol ~~unless--the--visitor--demonstrates--he--did--not--intend--to--conceal--and/or--introduce--alcohol--into--the--facility.~~
 - 8) Providing false identification or information;
 - 9) Disruptive conduct of a major nature;
 - 10) Violation of State, Federal, or local law during a visit, including arrest or and/or conviction based on any action committed during a visit.
 - 11) Any recurrence of an action that previously resulted in a temporary restriction.
- h) ~~Employees~~ An--employee who have ~~has~~ been involved with a committed persons person or a former employees employee who have ~~has~~ either resigned or have ~~has~~ been terminated as a result of involvement with a committed persons person, may be permanently restricted from visits if it is determined they he may be a threat to safety or security.
- i) If contraband is discovered in the possession of a committed person either during or after a visit, it will be assumed that the contraband was introduced by the committed person's visitor.
- j) Visits of committed persons hospitalized in the community may be

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

restricted to the immediate family and shall be subject to the general visiting policies of the hospital.

- k) Written notification of temporary or permanent restriction of visiting privileges shall be sent to the visitor and to the committed person. Any person excluded from a committed person's visiting list at one correctional facility may be excluded at all facilities. The notice of temporary restriction shall state the exact length of the restriction. ~~The notice of permanent restriction shall inform the visitor that he may request that the Chief Administrative Officer review the decision after a six-month period.~~

- 1) Notices of permanent restrictions shall inform visitors and committed persons that they may request that the Chief Administrative Officer review the decision after a six month period. After the initial six month review, permanent ~~Permanent~~ restrictions shall be reviewed by the Chief Administrative Officer on an annual basis upon request of the committed persons ~~person~~ or their ~~its~~ visitors ~~visitors~~. Written notification of the decision shall be sent to the visitor and to the committed person.

- m) The Chief Administrative Officer may restore visiting privileges at any time.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: MAIL AND TELEPHONE CALLS

Section 525.100 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions of the Department of Corrections.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.110 Definitions

- a) "Chief Administrative Officer" means the highest ranking official of a correctional facility.

- b) "Department" means the Department of Corrections.

- c) "Deputy Director" means the highest ranking official of a division or bureau within the Department or the Chief Deputy Director of the Department.

- d) "Director" means the Director of the Department of Corrections.

- e) "Incoming privileged mail" means mail from the following:

- 1) The Director;
- 2) Deputy Directors and Assistant Deputy Directors of the Department;
- 3) Members of the Office of Advocacy Services;

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- 4) Members of the Administrative Review Board;
- 4)5) Members of the Prisoner Review Board;
- 5)6) The Governor of Illinois;
- 6)7) Federal, Illinois, or local Illinois legislators;
- 7)8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

- 8)9) John Howard Association; and

- 9)10) Legal mail.

f) "Outgoing privileged mail" means mail to the following:

- 1) The Director;
- 2) Deputy Directors and Assistant Deputy Directors of the Department;
- 3) Members of the Office of Advocacy Services;
- 4) Members of the Administrative Review Board;
- 4)5) Members of the Prisoner Review Board;
- 5)6) The Governor of Illinois;
- 6)7) Federal, Illinois or local Illinois legislators;
- 7)8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

- 8)9) John Howard Association;

- 9)10) Clerks of courts; and

- 10)11) Legal mail.

g) "Legal mail" means mail to and from the following:

- 1) Registered Attorneys;
- 2) The Illinois Attorney General;
- 3) Judges or magistrates of any court or the Illinois Court of Claims; and
- 4) Any organization which provides direct legal representation to committed persons, but not including organizations which provide referrals to attorneys, such as bar associations.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.115 Responsibilities

- a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.120 Processing of Mail

- a) Mail shall be delivered and posted promptly.
- b) Committed persons may correspond with anyone in the free community. Permission for committed persons to correspond between intra-state and inter-state correctional facilities shall require the approval of the Chief Administrative Officers of both facilities and shall be based on safety and security concerns.
- c) Each facility shall establish procedures in cooperation with the local post office for processing certified or registered mail. To send certified or registered mail, the committed persons ~~person~~ in an adult or juvenile facilities ~~facility~~ must have sufficient funds in their his trust fund accounts ~~account~~ and must attach to the envelopes envelope a signed money vouchers ~~voucher~~ so that the proper postage may be applied and the amount deducted from their his trust fund accounts ~~account~~.
- d) Committed persons shall not be permitted to open, read, or deliver another committed person's mail without the person's his permission. However, committed persons may transport mail in sacks or other closed containers under the direct supervision of an employee.
- e) No disciplinary restrictions shall be placed on a committed person's mail privileges.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.130 Outgoing Mail

This Section applies only to the Adult and Juvenile Divisions.

- a) Committed persons shall be permitted to mail at State expense the equivalent of three one-ounce, first-class letters to a destination within the continental United States each week. This allowance may not be transferred from one committed person to another, nor may it accumulate from one week to another.
- b) Committed persons shall be permitted to send additional letters if they have sufficient funds in their trust fund accounts and attach signed money vouchers to cover the postage. Committed persons with insufficient money in their trust fund accounts shall be permitted to send reasonable amounts of legal mail and mail to clerks of any court or the Illinois Court of Claims and to certified court reporters at

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

State expense if they attach signed money vouchers authorizing deductions of future funds to cover the cost of the postage. All outgoing privileged and non-privileged mail will be sent only if the committed person has sufficient funds to pay the postage.

- c) Committed persons must clearly mark all outgoing mail with their name and in the Adult Division with their institutional number. Mail that is not properly marked, including privileged mail, shall be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- d) Outgoing privileged mail must be clearly marked as "privileged" and sealed by the committed person. Outgoing mail which is clearly marked as privileged and addressed to a privileged party may not be opened for inspection except as provided in subsection (e) of this section.
- e) In the Adult Division, outgoing privileged mail shall be examined for dangerous contraband, using an x-ray, fluoroscope, or other similar device. Such examination may be conducted in the Juvenile Division. Outgoing privileged mail may be inspected for dangerous contraband by other means which do not damage the mail and which do not permit the mail to be read. Except in an emergency, outgoing privileged mail shall not be opened, unless there is reasonable suspicion that dangerous contraband is contained therein. Legal services is consulted, and the mail is opened in the committed person's presence. f) With the exception of privileged mail, all mail shall be unsealed when collected or placed in housing unit mailboxes. Sealed mail that is not privileged will be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- g) Each correctional facility shall establish procedures for the collection of outgoing mail. Collections shall be made daily, Monday through Friday, except on State holidays. Every effort shall be made to ensure that mail is delivered to the U.S. Postal Service on the same day.
- h) Outgoing non-privileged mail shall be inspected for contraband. If a letter from a committed person is confiscated because it contains contraband, the committed person shall be notified promptly in writing.
- i) Department employees may spot check and read outgoing non-privileged mail. Outgoing non-privileged mail or portions thereof may be reproduced or withheld from delivery if it presents a threat to security or safety, including the following:
 - 1) The letter contains threats of physical harm against any person or threats of criminal activity;
 - 2) The letter contains threats of blackmail or extortion;
 - 3) The letter contains information regarding sending contraband into or out of the facility, plans to escape, or plans to engage in criminal activity;
 - 4) The letter is in code and its contents cannot be understood by

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- correctional staff;
- 5) The letter violates any departmental rules or contains plans to engage in activities in violation of departmental or institutional rules;
 - 6) The letter solicits gifts, goods, or money from other than family members;
 - 7) The letter contains information which, if communicated, might result in physical harm to another;
 - 8) The letter contains unauthorized correspondence with another committed person; or
 - 9) The letter or contents thereof constitute a violation of State or federal law.
- l) Any outgoing letter may be stopped and returned to the sender if the person to whom it is addressed (or a parent or guardian, if the addressee is a minor or incompetent) has notified the Chief Administrative Officer in writing that the person he does not wish to receive mail from the committed person. This rule shall not be construed to prevent a committed person from corresponding with their children unless their parental rights have been terminated.
- k) If a committed person is prohibited from sending a letter or portions thereof, the committed person shall be informed in writing of the decision.
- l) Material from a letter which violates Section 525.130(1)(b) of this Section may be placed in a committed person's master file.
- m) Committed persons may not send packages without approval of the Chief Administrative Officer, whose decision shall be based on administrative, safety, and security considerations.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.140 Incoming Mail

- a) Incoming privileged mail must be clearly marked as "privileged" and be clearly marked with the name, title, and address of the sender.
- b) Incoming privileged mail may be opened in the presence of the committed person to whom it is addressed to inspect for contraband, to verify the identity of the sender, and to determine that nothing other than legal or official matter is enclosed.
- c) Incoming privileged mail may contain communications only from the privileged correspondent whose name and address appear on the envelope. If non-privileged material or correspondence from a third party is found to be enclosed, such material shall be treated as non-privileged mail.
- d) All incoming non-privileged mail, including mail from clerks of courts, shall be opened and inspected for contraband.
- e) Cashier's checks, money orders, business checks subject to the

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- restrictions imposed by 20 Ill. Adm. Code 205 shall be deposited in the committed person's trust fund account, with a record made of the sender's name, the amount received, and the date. For purposes of this Section a business check shall mean a check written on any agency's agency or firm's account and any check written on an employer's personal account for wages due a person assigned to the Community Services Division. Committed persons the committed person shall be notified of all monies received and deposited in their trust fund accounts. However, any checks or money orders which exceed the limitation on the amounts (20 Ill. Adm. Code 205) shall be returned to the sender, and the committed person shall be notified.
- f) Personal checks and cash shall be returned to the sender, and the sender shall be notified that funds cannot be received in that form.
 - g) Correctional officials may spot check and read incoming non-privileged mail. Incoming mail or portions thereof may be inspected, reproduced, or withheld from delivery for any of the reasons listed in Section 525.130(1)(b) of this Subpart or if determined to be obscene by the Publications Review Committee in accordance with Subpart C of this Part.
 - h) When a committed person is prohibited from receiving a letter or portions thereof, the committed person and the sender shall be notified in writing of the decision.
 - i) If a committed person has been transferred or released, first class mail shall be forwarded to the person him if the his address is known. If no forwarding address is available, the mail shall be returned to the sender.
 - j) If a committed person has been absent from the facility on a furlough or pursuant to writ, the person's his mail shall be held at the facility for a period of one month, unless the committed person has made a written request to the Chief Administrative Officer to have the his mail forwarded to another address. At the conclusion of the month, first class mail shall be forwarded to the committed person's address, if known, or returned to the sender, unless alternative arrangements have been made.
 - k) Committed persons may receive publications, including books, and periodicals and catalogs, in accordance with Subpart C of this part, and may receive manual typewriters ordered directly from a supplier through the commissary. Other packages may be received only as approved by the Chief Administrative Officer. The contents of all packages other than packages sent from pre-approved vendors, including packages containing books and periodicals, must be clearly listed on the outside of the package. Packages which do not contain a description of the contents shall be returned to the sender. All packages shall be opened and searched prior to delivery.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Section 525.150 Telephone Privileges

a) Telephone privileges shall be granted to the committed persons ~~person~~ in accordance with their ~~his~~ institutional status and provisions of this Section. ~~Each committed person qualifying for telephone privileges may place collect calls to anyone in the free community anywhere in the continental United States and Puerto Rico. However, calls to parties or ex-offenders require approval by the State Administrative Officer.~~

b) Collect calls may be made to persons in the continental United States and Puerto Rico, where ~~available~~.

c) Committed persons may not place telephone calls to:

1) An 300 or 300 area code or 976 prefix within the 312 or 708 area codes;

2) Emergency or directory assistance;

3) Persons or companies which have requested that a block be placed on their telephone numbers;

4) Numbers suspected of being used fraudulently or for fraudulent purposes;

5) Parties, ex-offenders, former employees, or current employees absent the approval of the Chief Administrative Officer; or

6) Numbers or persons restricted for other legitimate penological reasons, including security and order.

d) A block may be placed on telephone calls to:

1) The local community, except to the committed person's friends, family, and others in the local community who request to receive calls from the committed person.

2) A telephone number for which there is a large unpaid balance on the account, with the exception of telephone numbers of attorneys and law firms.

3) Any telephone numbers listed in subsection (c) of this Section.

e) In the case of valid emergencies, such as critical illness or death in a committed person's immediate family, consideration shall be given to allowing a special telephone call, regardless of the individual's institutional status.

f) Committed persons who are the subject of a new criminal indictment, information or complaint shall be permitted to make reasonable telephone calls to attorneys for the purpose of securing defense counsel, regardless of the individual's institutional status.

g) All committed persons' telephone calls shall be subject to monitoring and recording at any time by departmental staff, unless prior special arrangements have been made to make or to receive confidential telephone calls to or from their attorneys.

h) Notices shall be posted at each telephone from which committed persons are normally permitted to place calls and in the committed persons' orientation manual. The notices shall state that committed persons' telephone calls may be monitored or and/or recorded or both.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: MARRIAGE OF COMMITTED PERSONS

Section 525.300 Applicability

This Subpart applies to the Adult, Juvenile and Community Services Divisions of the Department of Corrections.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.305 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 525.310 Request for Permission to Marry

a) Marriage between two committed persons confined in Department facilities shall be prohibited.

b) A committed person who wishes to become married shall submit a written request to the Chief Administrative Officer a minimum of 30 days in advance of the date requested for the marriage ceremony.

1) The notice shall include the name and address of the intended spouse and a description of any actions which have been taken in obtaining a marriage license and in complying with applicable provisions of the law.

2) All financial obligations shall be the responsibility of the committed person. ~~The committed person shall be given prior notice of the cost of all required blood tests.~~

3) A request for a three day unescorted home and family furlough or a community correctional center leave may be submitted at the same time as the request to marry. The request shall be reviewed in accordance with departmental procedures regarding furloughs.

c) The facility chaplain or an individual designated by the Chief

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

- Administrative Officer shall conduct a pre-marital counseling session with the committed person and/or the intended spouse.
- d) The Chief Administrative Officer shall review the request to marry and shall approve or deny the request based on security concerns, or the best interest of the committed person, or other legitimate penological interests. The Chief Administrative Officer's decision regarding the request to marry and, if applicable, the leave fortough request, shall be made in writing, and a copy shall be provided to the committed person.
- e) ~~The if a-fortough is not permitted, the facility shall make its chapel or another suitable location available for the performance of the marriage ceremony.~~
- 1) The facility's chaplain shall review the type of ceremony which is requested and refer a description of the proposed ceremony to the Chief Administrative Officer for approval.
 - 2) Witnesses and guests shall not exceed six in number, excluding the officiating clergyman. Witnesses and guests must be on the committed person's approved visiting list, except as otherwise approved by the Chief Administrative Officer.
 - 3) Facilities for the consummation of marriages or for a reception shall not be provided.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Page: Illinois Architecture Practice Act of 1989
- 2) Code Citation: 63 Ill. Adm. Code 1150
- 3) Section Numbers:
 1150.10 Proposed Action:
 Amendment
 1150.20 Amendment
 1150. Illustration A Amendment
 1150. Appendix A Amendment
- 4) Statutory Authority: The Illinois Architecture Practice Act of 1989 [225 ILCS 305].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates Sections pertaining to the Intern Development Program, including the addition of a requirement that all applicants utilize the National Council of Architectural Registration Boards or an equivalent record keeping entity recommended by the Architect Licensing Board to collect, evaluate and certify all training data and records required for compliance with this Part. Currently, applicants are permitted to maintain their own training records on forms provided by the Department.
- Engineering Systems Coordination is being added to the Design and Construction Documents category for approved diversified professional training.
- In addition, Section 1150. Illustration A is being amended to incorporate limited liability companies into a list of architect seal requirements.
- The proposed rulemaking also deletes outdated material.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
 Attention: Jean A. Courtney

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800 Fax: 217 792-7645

All written comments received within 45 days of this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing licensed architects.
- B) Reporting, bookkeeping or other procedures required for compliance: Applicants for licensure will be required to utilize the National Council of Architectural Registration Boards or an equivalent record keeping entity recommended by the Architect Licensing Board to collect, evaluate and certify all training data and records.
- C) Types of professional skills necessary for compliance: Architect skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1150

ILLINOIS ARCHITECTURE PRACTICE ACT OF 1989

Section 1150.10	Category I - Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated After January 1, 1990
1150.20	Category II - Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated Prior to January 1, 1990
1150.30	Application for Licensure by Examination
1150.40	Examination
1150.50	Approved Architecture Programs
1150.60	Licensure by Endorsement
1150.65	Inactive Status
1150.70	Restoration
1150.80	Corporations and Partnerships
1150.85	Acts Constituting the Practice of Architecture Pursuant to Section 5 of the Act
1150.90	Standards of Professional Conduct
1150.95	Architecture Complaint Committee
1150.100	Renewals
1150.110	Granting Variances
ILLUSTRATION A	Architect Seal Requirements
APPENDIX A	Categories of Diversified Professional Training

AUTHORITY: Implementing the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Architecture Act, effective May 29, 1975; amended May 12, 1977; codified at 5 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 7658, effective June 15, 1983; amended at 9 Ill. Reg. 5691, effective April 16, 1985; amended at 11 Ill. Reg. 14077, effective August 5, 1987; transferred from Chapter I, 68 Ill. Adm. Code 150 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1150 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2933; amended at 16 Ill. Reg. 3143, effective February 14, 1992; amended at 17 Ill. Reg. 1554, effective January 25, 1993; amended at 18 Ill. Reg. 10736, effective June 27, 1994; amended at 19 Ill. Reg. 16066, effective November 17, 1995; amended at 20 Ill. Reg. , effective

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section 1150.10 Category I - Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated After January 1, 1990

The education and diversified professional training required for examination for licensure under the Illinois Architecture Practice Act (Ill. Rev. Stat. 1991, Ch. 117, Par. 1391 through 1397 [225 ICS 305] (the Act)) is set forth in this Section and Section 1150.20. Applicants initiating their education after January 1, 1990, shall meet the requirements set forth in this Section. Individuals who initiated their training prior to the effective date of this Section may have the training evaluated pursuant to this Section or Section 1150.20.

a) Education Requirements

- 1) Applicants with a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB):
 - A) Bachelor of Architecture degree; or
 - B) Master of Architecture degree.

- 2) Applicants with a degree from a program not accredited by the NAAB:
 - A) A pre-professional 4 year baccalaureate degree program in architecture approved by the Board in accordance with Section 1150.50 of this Part, which is accepted for direct entry into a professional Master of Architecture degree program accredited by the NAAB; or

- B) Completion of the education requirements as specified in the National Council of Architectural Registration Boards (NCARB) Circular of Information No. 3, as certified by NCARB.

b) Diversified Professional Training Requirements

- 1) An applicant must complete either the Intern Development Program (IDP) of the National Council of Architectural Registration Boards (NCARB), 1735 New York Avenue, N.W., Suite 700, Washington, D.C. 20006, or the training requirements set forth in this Section. The applicant may satisfy the requirements in effect at the time the training commenced.

- 2) To satisfy diversified professional training requirements, each applicant must acquire a minimum number of value units based on the education requirements set forth in subsection (3) below. One value unit equals eight hours of acceptable activity. Acceptable activities are set forth in Appendix K of the NCARB IDP Guidelines. (A copy of these guidelines is available from the Department or NCARB.) Applicants may earn value units for training acquired through one of three ways:
 - A) Participation: experience is acquired when the applicant actually performs a particular task; or
 - B) Observation: experience is acquired when the applicant works under the direction and control of a licensed architect who is performing the task; or

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- C) Supplemental education training approved by the Board in accordance with IDP Guidelines.

- 3) Value units shall be earned in prescribed categories and under requirements set forth in Appendix A of this Part. The required number of value units will vary according to the following educational requirements:
 - A) Applicants who meet the educational requirements set forth in subsection (a)(1) and (a)(2)(B) shall complete 700 value units pursuant to Section 1150. Appendix A, Column (1).
 - B) Applicants with a pre-professional 4 year baccalaureate degree set forth in subsection (a)(2)(A) shall complete 170 value units pursuant to Section 1150. Appendix A - Column (2).

- 4) All applicants shall may utilize NCARB or an equivalent record keeping entity recommended by the Board and approved by the Department to collect, evaluate and certify all training data and records required for compliance with this Part. Applicants may choose to maintain their own training records in forms provided by the Department. When an applicant maintains its own training records, the applicant accepts full responsibility for a continuous accurate record of verified experience and will only have the training records evaluated after completion of the training and submission of an application for examination to the Department.

- 5) If the accuracy of any submitted documentation or the relevance or sufficiency of the training is questioned by the Department or the Architect Licensing Board (the Board) because of discrepancies or conflicts in information, a need for additional information or information needing further clarification, the applicant will be requested to provide such information as necessary.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1150.20 Category II - Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated Prior to January 1, 1990

The education and diversified professional training/experience (training) required for licensure for individuals whose education was initiated prior to January 1, 1990, as required by Section 13 of the Act shall be evaluated under the requirements of this Section.

a) Education Requirements (and related training experience required):

- 1) A 6 year professional degree in architecture from a program accredited by the NAAB plus 2 years of approved training;
- 2) A 5 year professional degree in architecture from a program accredited by the NAAB plus 3 years of approved training;
- 3) A pre-professional 4 year baccalaureate degree in architecture

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

(other than offices of licensed architects) when the experience is under the direct supervision of a licensed architect.

C) Experience directly related to architecture under the direct supervision of a licensed engineer

(practicing as a structural civil, mechanical or electrical engineer in the field of building construction), or a registered landscape architect ~~certified planner or registered-interior-designer.~~

D) Experience other than (A), (B) or (C) ~~of experience directly related to on-site building construction operations or experience involving physical analyses of existing buildings, in activities involving the design and construction of the built environment (such as analysis of existing buildings, planning, programming, design of interior spaces, review of technical submissions, engaging in building construction activities and the like) when under the direct supervision of a person experienced in the activity.~~

E) A post-professional degree in architecture or teaching or research in an NAAB-accredited architectural program.

F) Experience in architecture outside the United States or Canada under the direct supervision of a person authorized to practice architecture in that jurisdiction

500

2351-year

500

1171-year

1000

2151-year

235

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

G) Training that does not fit A-F settings above will receive no credit.

2) Program Requirements

A) No training credits may be earned prior to satisfactory completion of:

- i) Three years in an NAAB-accredited professional degree program; or
- ii) The third year of a 4 year pre-professional degree program in architecture accepted for direct entry to an NAAB-accredited professional master's degree program; or
- iii) One year in an NAAB-accredited professional master's degree program; or
- iv) 96 semester credit hours as evaluated by Education Evaluation Services for Architects (EESA), in accordance with NCAPB Circular of Information No. 3 of which no more than 60 hours can be in the general education category; or
- v) Five education credits in the circumstances described in subsection (a)(3) and (4) of this Section in accordance with Circular of Information No. 3.

Note: 32 semester credit hours or 48 quarter credit hours shall equal one year in an academic program.

B) No experience used to meet education requirements may be used to earn training credits.

C) To earn credits under subsection (c), an applicant must work at least 35 hours per week for a minimum period of 10 consecutive weeks under subsection (c)(1)(A) or (B) ~~subsection (c)(1)(B) or 6 consecutive months under subsection (c)(1)(C), (D) or (E). An applicant may earn one-half of the credits specified under subsection (c)(1)(A) or (B) subsection (c)(1)(B) for work of at least 20 hours per week in periods of 6 or more consecutive months. No credits will be given for part-time work in any category other than subsections (c)(1)(A) and (B) subsection (c)(1)(B).~~

D) To earn credit under subsection (c)(1)(B), an applicant's credit hours must be in subjects evaluated by NCAPB as directly related to architecture; 20 semester credit hours or 30 quarter credit hours of teaching or equivalent time in research will equal one year.

E) A person practices as a "principal" by being:

- i) A licensed architect; and
- ii) The person in charge of the organization's architectural practice, either alone or with other

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

licensed architects.

- F) A "licensed architect" is a person licensed to practice architecture in the jurisdiction in which he she practices.
- 6) No credit will be given for training in a foreign jurisdiction unless the training was under the direct supervision and control of an architect licensed in a State or jurisdiction or training approved by the Department upon recommendation of the Board.
- 3) The verification of training shall be submitted to the Department at the time of application for examination as an architect.
- 4) If the accuracy of any submitted documentation or the relevance or sufficiency of the training is questioned by the Department or the Board because of discrepancies or conflicts in information, a need for additional information or information needing further clarification, the applicant will be requested to provide such information as necessary.
- d) In lieu of the above training, the Department will accept successful completion of the Intern Development Program of NCARB.

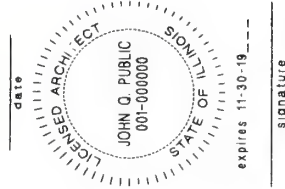
(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section 1150. ILLUSTRATION A Architect Seal Requirements

- a) Every licensed architect shall have a reproducible seal, or facsimile, the print of which shall contain the name of the architect, the license number, and words "Licensed Architect, State of Illinois". The licensed architect shall affix the signature, current date, date of license expiration and seal to the first sheet of any bound set or loose sheets of construction documents utilized as contract documents or prepared for the review and approval of any governmental or public authority having jurisdiction by that licensed architect or under that licensed architect's direct supervision and control. The sheet of construction documents on which the seal is affixed shall indicate those documents or parts thereof for which the seal shall apply (Section 14 of the Act).
- b) Partnerships may utilize a reproducible seal or facsimile which contains all partners names and license numbers, provided that the partner(s) responsible for the construction documents for the building shall sign and seal in the manner prescribed in subsection (a) above. All construction documents issued by an architectural firm, corporation, limited liability company or partnership are required to bear the corporate or assumed business name and design firm registration number, in addition to the seal requirements.
- c) The following is a suggested facsimile of the design and lettering of the seal:



(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section 1150.APPENDIX A Categories of Diversified Professional Training

- a) Categories of diversified professional training and corresponding minimum value unit requirements in each category are as follows (For Total Value Units required for various educational levels, see Section 1150.10(b)(3)(A) and (3)):

CATEGORY A: DESIGN AND CONSTRUCTION DOCUMENTS
(Column 1) (Column 2)

- | | | |
|---|--------|--------|
| 1) Programming | 10 | 20 |
| 2) Site and Environmental Analysis | 10 | 20 |
| 3) Schematic Design | 15 | 30 |
| 4) Engineering Systems Coordination | 15 | 30 |
| 5a) Building Cost Analysis | 10 | 20 |
| 5b) Code Research | 15 | 30 |
| 76) Design Development | 40 | 80 |
| 87) Construction Documents | 135±45 | 270±99 |
| 98) Specifications and Materials Research | 15 | 30 |
| 109) Document Checking and Coordination | 10±5 | 20±9 |

MINIMUM VALUE UNIT TOTALS: 350 700

CATEGORY B: CONSTRUCTION ADMINISTRATION

- | | | |
|---------------------------------------|----|----|
| 11a) Bidding and Contract Negotiation | 10 | 20 |
| 12a) Construction Phase-Office | 15 | 30 |
| 13a) Construction Phase-Observation | 15 | 30 |

MINIMUM VALUE UNIT TOTALS: 70 140

CATEGORY C: OFFICE MANAGEMENT

- | | | |
|-------------------------|----|----|
| 14a) Project Management | 15 | 30 |
| 15a) Office Management | 10 | 20 |

MINIMUM VALUE UNIT TOTALS: 35 70

CATEGORY D: RELATED ACTIVITIES

- | | | |
|---|----|----|
| 16a) Professional and Community Service | 10 | 20 |
|---|----|----|

MINIMUM VALUE UNIT TOTALS: 10 20

Related activities include diversified professional training in energy conservation, computer applications, regional and urban

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

planning, interior design, landscape architecture, construction management, environmental and structural engineering, applied and theoretical research, teaching, historical restoration and professional delineation.

- b) The listing above of required minimums in Categories A, B, C and D totals 465 Value Units (VU's) (Column (1)) and 930 VU's (Column (2)) allowing for the additional VU's to be acquired in any of the listed categories. All of the additional VU's may be acquired in one category or distributed among the categories.

c) Explanation of Requirements

- 1) VU's in categories A, B, C and D may be acquired only if the applicant meets the time requirements of Section 1150.20(c)(2)(C). VU's may be acquired in Category D if the activity is substantial and continuous. Full VU credit is earned for acceptable full-time and part-time employment in the settings described in Section 1150.20(c)(1)(A), (B), (C) and (D).
- 2) No VU's may be acquired prior to meeting the requirements of Section 1150.20(c)(2)(A).
- 3) Applicants with a post-professional degree in architecture or a NAAB accredited Master of Architecture degree qualify for 235 VU's under Category D.
- 4) An IDP applicant may earn VU's by completing Board-approved supplementary education programs: Supplementary education cannot be used to satisfy the minimum VU requirements in training areas 1-16 1-15. No VU's may be earned for supplementary education prior to receiving his or her highest educational degree. (See Section 1150.10(a)7.1)
- 5) The VU's which may be earned under (c)(3) and (4) above may not exceed 235 VU's.
- 6) To satisfy Categories A and B of the training requirements, VU's (including VU's earned from supplementary education) in those categories must be acquired when employed in the settings described in Section 1150.20(c)(1)(A) and (B).
- 7) A minimum of 235 VU's must be acquired in the settings setting described in Section 1150.20(c)(1)(A) and (B) after having received his or her highest educational degree. (See Section 1150.10(a)7.1)
- 8) In evaluating training, the Board may, prior to certification, require substantiation of the quality and character of the training, notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.
- 9) For detailed description of the IDP training categories and supplementary education requirements, see IDP Guidelines.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Business Corporation Act

2) Code Citation: 14 Ill. Adm. Code 150

3) Section Number Proposed Action

150.10 Amendment

150.100 Amendment

150.120 Amendment

150.130 Amendment

150.200 Amendment

150.230 Amendment

150.415 Amendment

150.425 Amendment

150.430 Amendment

150.475 Amendment

150.485 New Section

150.500 Amendment

150.520 Amendment

150.610 Amendment

150.630 Amendment

150.720 Amendment

4) Statutory Authority: Implementing and authorized by the Business Corporation Act of 1983 (905 ILCS 5)

5) A Complete Description of the Subjects and Issues Involved: The rules set forth that hearings shall be conducted pursuant to the Business Corporation Act; the procedures to occur in a hearing; the procedures to occur in a contested case hearing; if a court should find any Subpart invalid, the holding would not affect the other Parts; pertains to information contained in the annual list and the fee charged for obtaining the list; information on obtaining the daily list and the fee charged; information on obtaining access to the Department's database; the procedure to request reconsideration of a final determination; that the provisions of this Subpart apply to all corporations subject to the provisions of the Act; the statutory provisions that apply to a proposed corporate name; the requirements that apply to a proposed corporate name; provides the basis for rejecting offensive words in the corporate title; the applicability of service of process on the Secretary of State; the locations on which to serve process on the Secretary of State; the definition of "business" and "property" for the purpose of computing franchise tax; that the consideration received upon the issuance of shares cannot be less than the aggregate par value of the shares issued; and the corporate structure available to certain types of corporations.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds

Department of Business Services

Room 328, Howlett Building

Springfield, Illinois 62756

217/782-9524

12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any type of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed rules begins on the next page.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER 1: SECRETARY OF STATE

PART 150

BUSINESS CORPORATION ACT

SUBPART A: HEARING PROCEDURES

Section

150.10 Applicability

150.20 Definitions

150.30 Right to Counsel

150.40 Appearance of Attorney

150.50 Special Appearance

150.60 Substitution of Parties or Attorneys

150.70 Commencement of Action; Notice of Hearing

150.80 Motions

150.90 Form of Papers

150.100 Conduct of Hearings

150.110 Orders

150.120 Record of Hearings

150.130 Invalidity

SUBPART B: SALE AND RELEASE OF INFORMATION

Section

150.200 Annual List of Corporations

150.210 Monthly List of Corporations

150.220 Daily List of Corporations

150.230 Computer Access to Information

150.240 Abstracts of Corporate Record

150.250 Invalidity

SUBPART C: ERRORS, REFUNDS, CORRECTIONS, ADJUSTMENTS, OBJECTIONS, AND OTHER RELIEF

Section

150.300 Errors or Defects

150.305 Financial Data as Support Documentation

150.310 Invalidity

SUBPART D: NAMES

Section

150.400 Preliminary Determination of Availability

150.405 Final Determination of Availability

150.410 Response as to Basis of Unavailability

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Reconsideration Procedure

150.420 Effect of Final Determination

150.425 Applicability

150.430 Availability of Names: Statutory Requirements

150.435 Standards - Conflicting Names

150.440 Distinguishable - Defined

150.445 Matters not Considered

150.450 Significant Differences

150.455 Surnames

150.460 Alphabet Names

150.465 Government Affiliation

150.470 Restricted and Professional Words

150.475 Acceptable Characters of Print

150.480 Invalidity

150.485 Incorporate Names

SUBPART E: SERVICE OF PROCESS ON THE SECRETARY OF STATE

Section

150.500 Preamble

150.510 Manner of Service

150.520 Place of Service

150.530 Payment of Fees

150.540 Invalidity

SUBPART F: FEES, FRANCHISE TAX AND LICENSE FEES: ANNUAL REPORT

Section

150.600 Payment of Fees, Franchise Tax and License Fee

150.610 Definitions

150.620 Annual Report

150.621 Confidentiality of Annual Report Financial Data

150.630 Shares Having a Par Value

150.640 Invalidity

SUBPART G: INTERPRETIVE COMMENTS AND GENERAL PROVISIONS

Section

150.700 Interpretive Comments Applicable Generally

150.705 Paid-in Capital

150.710 Advice to the Public

150.720 Incorporating Licensed Professionals

AUTHORITY: Implementing and authorized by the Business Corporation Act of 1983 [805 ILCS 5].

SOURCE: Adopted at 9 Ill. Reg. 1433, effective February 1, 1985; amended at 10 Ill. Reg. 5146, effective March 21, 1986; amended at 11 Ill. Reg. 10302,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

opposing party no later than fifteen (15) business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the Hearing Officer who shall rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense.

o) At the request of any party or upon his own motion in a complicated case, the Hearing Officer will call a prehearing conference. At the conference, the parties, or their representatives shall appear as the Hearing Officer directs to consider:

- 1) The simplification of the issues;
- 2) Amendments to the grounds for action;
- 3) The possibility of obtaining admissions and stipulations of fact and of documents which will avoid unnecessary proof;
- 4) The limitation of the number of expert witnesses;
- 5) Any other matters which may aid in the disposition of the contested case.

p) Upon the conclusion of a prehearing conference, the Hearing Officer shall enter an order which recites any action taken, any agreements made by the parties as to any of the matters considered, and the issues to be heard.

q) The burden of proof is upon the applicant for any relief in a hearing. The standard of proof is the preponderance of the evidence.

r) All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the Hearing Officer.

s) Report of Proceedings.

1) The Department shall, at its expense, have present at each hearing, an electronic recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, to-wit: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the Hearing Officer and of parties and/or their representatives, and all rulings of the Hearing Officer.

2) Upon request and at his own expense any party may have a copy of said report of proceedings, from said court reporter, or transcribed from the electronic device by the Department at the statutory rate as set forth in 805 ILCS 5 Ill-Rev--Stat--1987 ch--53--par--24.

t) A request for continuance of a hearing is directed to the sound discretion of the Hearing Officer to whom the case has been assigned for hearing. Such continuance will be granted, for good cause shown, provided the request is received by the Department and other parties not less than five (5) days prior to the hearing date unless good cause is shown during the hearing for a continuance due to the need for new evidence, sudden unavailability of counsel, sudden illness of

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

a party, or similar reasons. Such request shall be in writing and shall set forth the grounds alleged therefor. Oral requests for continuances shall not be granted unless made during the hearing for good cause. "Good cause" is shown when a Petitioner or Respondent demonstrates a real and compelling need for additional time. "A real and compelling need" includes, but is not limited to, service in the armed forces or serious illness, relating to either party or that party's attorney.

u) No formal hearing shall be continued "generally". A continuance, when granted, shall state a date certain, not more than sixty (60) days from the prior hearing date at which time the hearing shall reconvene.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 150.120 Record of Hearings

a) The record of the hearing in a contested case shall include:

- 1) All pleadings (including all pre-hearing and post-hearing notices and responses thereto, admissions, stipulations of facts, motions, and rulings thereon);
- 2) All evidence admitted;
- 3) A statement of matters officially noticed;
- 4) A transcript of the proceedings;
- 5) The Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer.
- 6) The Order of the Secretary of State, which shall constitute a final administrative decision within the provisions of the Administrative Review Law [805 ILCS 5/Art. III Ill-Rev--Stat--1987-ch--119--par--9-191-ee-seq7.
- 7) All staff memoranda or data submitted to the Hearing Officer in connection with his or her consideration of the case.
- 8) Any communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60], but such communication shall not form the basis for any finding of fact.

t5-156A-109+10-60;

b) The record shall be certified by the Hearing Officer or Director upon any complaint for administrative review. An index of the record, with each page of the record numbered in sequence, shall be prepared by the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 150.130 Invalidity

If any part of this Subpart shall be held invalid by a court of competent jurisdiction to-be-invalid, such holding shall not affect the remaining parts

The commercial purchaser shall not recall to any other purchaser the information obtained from the Department in the same form or in a form in which it is obtained from the Department. No other corporate information in quantity shall be sold or otherwise made available for purchase or for free. This subsection does not prevent a member of the public from making inquiries or purchases of information concerning an individual corporation in which he or she is specifically interested. However, any person requesting information arranged by a specific field of the Department shall be referred to all commercial vendors of corporate information who have obtained the information pursuant to subsection 3, and the Department shall not provide the corporate information to the requester. The Department shall not state any preference of commercial vendor to the requester, but shall provide all names and addresses of the commercial vendors to the requester. As of July 1, 1987, the commercial vendors include: Bata General Distributors, West Publishing Company, Westlaw Information Associates, and Database.

SUBPART D: NAMES

An applicant may request reconsideration of a final determination that a proposed name is unavailable, by making a written request addressed to the Director, Room 328, the Howard Center Building, Springfield, Illinois 62756. The applicant shall attach to his request a copy of the written final determination made rejecting the name, and shall include a statement of the reasons upon which the applicant seeks approval of the name. The applicant may include material in support of the request for reconsideration. This reconsideration procedure shall not apply to any request for a preliminary determination of availability. Only after the Director's determination of

NOTICE OF PROCEEDINGS

unavailability shall an applicant be entitled to a hearing pursuant to Section 4.06 of this part.

(Source: America at 20 Ill. Reg. 1960-1961)

Section 150.425 Applicability

The provisions of this subpart shall be applicable to all corporations, whether or not they are organized under the laws of the United States, which are created, or will or may become subject to the provisions of the Securities Corporation Act of 1933 (35 Stat. 1606, 49 Stat. 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 150.430 Availability of Names: Statutory Requirements

A proposed corporate name shall comply with the applicable provisions of the Business Corporation Act of 1983 (35 ICS 5) (1989-Rev. Stat. 1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-2521-2522-2523-2524-2525-2526-2527-2528-2529-2530-2531-2532-2533-2534-2535-2536-2537-2538-2539-2540-2541-2542-2543-2544-2545-2546-2547-2548-2549-2550-2551-2552-2553-2554-2555-2556-2557-2558-2559-2560-2561-2562-2563-2564-2565-2566-2567-2568-2569-2570-2571-2572-2573-2574-2575-2576-2577-2578-2579-2580-2581-2582-2583-2584-2585-2586-2587-2588-2589-2590-2591-2592-2593-2594-2595-2596-2597-2598-2599-2600-2601-2602-2603-2604-2605-2606-2607-2608-2609-2610-2611-2612-2613-2614-2615-2616-2617-2618-2619-2620-2621-2622-2623-2624-2625-2626-2627-2628-2629-2630-2631-2632-2633-2634-2635-2636-2637-2638-2639-2640-2641-2642-2643-2644-2645-2646-2647-2648-2649-2650-2651-2652-2653-2654-2655-2656-2657-2658-2659-2660-2661-2662-2663-2664-2665-2666-2667-2668-2669-2670-2671-2672-2673-2674-2675-2676-2677-2678-2679-2680-2681-2682-2683-2684-2685-2686-2687-2688-2689-2690-2691-2692-2693-2694-2695-2696-2697-2698-2699-2700-2701-2702-2703-2704-2705-2706-2707-2708-2709-2710-2711-2712-2713-2714-2715-2716-2717-2718-2719-2720-2721-2722-2723-2724-2725-2726-2727-2728-2729-2730-2731-2732-2733-2734-2735-2736-2737-2738-2739-2740-2741-2742-2743-2744-2745-2746-2747-2748-2749-2750-2751-2752-2753-2754-2755-2756-2757-2758-2759-2760-2761-2762-2763-2764-2765-2766-2767-2768-2769-2770-2771-2772-2773-2774-2775-2776-2777-2778-2779-2780-2781-2782-2783-2784-2785-2786-2787-2788-2789-2790-2791-2792-2793-2794-2795-2796-2797-2798-2799-

(Source: Amended at 20 _____, effective _____, effective _____)

Section 150.475 Acceptable Characters of Print

The Corporate name must consist of letters of the English alphabet, Arabic or Roman numerals, and/or symbols capable of being readily reproduced by the Office of the Secretary of State [395.LCS.5.4.05(a)(6)] (S999-03-11-Rev. 01-10037-04-32-001-4-05-01-57).

- a) Letters of the English alphabet include upper case or capital only; no distinction as to type face or font is recognized.
- b) Arabic numerals include: 0,1,2,3,4,5,6,7,8,9
- c) Roman numeral characters include: I, V, X, L, C, D, M
- d) Symbols recognized by the Secretary of State include: ! @ # \$ % & * () - = + , ; ' / ? .

(Source: Amended	at 29	Ill.	Reg.	effective

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Section 150.495 Improper Names

The corporate name or assumed corporate name shall not contain any word or words that create a connotation that is offensive to good taste and decency.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART E: SERVICE OF PROCESS ON THE SECRETARY OF STATE

Section 150.500 Preamble

For purposes of this Part, service of process on the Secretary of State shall refer to any service to be had on the Secretary of State in his or her capacity as an agent for service on corporations as required by the provisions of the Business Corporation Act of 1983 (805 ILCS 5/). (Chapter 327-Rev. Stat. 1983 ch. 327-par. 5-257-5-397-11-357-13-457)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 150.520 Place of Service

Service of any process, notice or demand made under this Part shall be had with the Department of Business Services either at Room 328, Howlett Building, Springfield, Illinois 62756, or at Room 1137, 17 North State Street-188-West Randolph-Street, Chicago, Illinois 60602 60601.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: FEES, FRANCHISE TAX AND LICENSE FEES: ANNUAL REPORT

Section 150.610 Definitions

For the purpose of computing franchise taxes and license fees as provided in Sections 15.40, 15.55 and 15.70 of the Business Corporation Act of 1983 (805 ILCS 5/15.40, 15.55 and 15.70) (111-Rev. Stat. 1994-Chapter 327-par. 1-191 et-seq.) the words and phrases in this Section shall have the meaning set forth herein.

- "Property" means gross assets, including all real, personal tangible and intangible property, without qualification.
- "Business" means gross receipts, from whatever source derived.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 150.630 Shares Having a Par Value

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

The consideration received at the time of the issuance of shares of _____ in the case of shares issued as a share dividend, the amount added is transferred to the paid-in capital for or on account of the issuance of shares cannot be less than the aggregate par value of the shares issued, and at no time shall the paid-in capital be reduced to an amount less than the aggregate par value of all issued shares.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART G: INTERPRETIVE COMMENTS AND GENERAL PROVISIONS

Section 150.720 Incorporating Licensed Professionals

- Authorized Corporate Structures
The following professionals may incorporate using only the corporate structures indicated on the list:
1) The Business Corporation or Professional Corporation Act may be used by these professions:

PROFESSION

STATUTORY REFERENCE

Roofer

Chapter-117-par.-7501-et-seq.
t225 ILCS 335+

Architecture

Chapter-117-par.-1951-et-seq.
t225 ILCS 305+

Professional Engineering

Chapter-117-par.-5201-et-seq.
t225 ILCS 325 205+

Structural Engineering

Chapter-117-par.-6601-et-seq.
t225 ILCS 340+

Land Surveyors

Chapter-117-par.-3251-et-seq.
t225 ILCS 330+

Landscape Architect

Chapter-117-par.-8101-et-seq.
t225 ILCS 315+

Pharmacist

Chapter-117-par.-4121-et-seq.
t225 ILCS 85+

(Pharmacy may be a BCA, but the pharmacist himself may only be a PC)

Real Estate Broker

Chapter-117-par.-5001-et-seq.
t225 ILCS 455+

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Marriage and Family
Therapists

Chapter--117--par--9951--1-et--seq;
f225 ILCS 557

Private Security Guard,
Private Detectives, and
Private Alarm Contractors
(Person shall be PC if detective,
but agency can be BCA)

Chapter--117--par--2451--1-et--seq;
f225 ILCS 4157

Detection of Deception
Examiners

Chapter--117--par--2431--1-et--seq;
f225 ILCS 4307

Collection Agencies

Chapter--117--par--2431--1-et--seq;
f225 ILCS 4257

- 2) The Professional Corporation Act, in its statement of intent, specifically states that it was enacted to allow licensed professionals to use this form of corporate structure.

PROFESSIONAL CORPORATIONS

STATUTORY REFERENCE

Athletic Trainer

Chapter--117--par--7631--1-et--seq;
f225 ILCS 57

Barbers

Chapter--117--par--1791--1-et--seq;
f225 ILCS 410727

(BCA can be formed to own
barber shops, but licensed
barber can only form PC)

Professional Boxing & Wrestling

225 ILCS 105

- A) Promoters
B) Contestants
C) Seconds
D) Referees
E) Judges
F) Managers
G) Trainers
H) Timekeepers

Cosmetologists

(BCA can be formed to own
barber shops, but licensed
barber can only form PC)

Chapter--117--par--1793--1-et--seq;
f225 ILCS 410737

Esthetician

Chapter--117--Section--1793A--1-et--seq;
f225 ILCS 41073A7

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Nail Technicians

Chapter--117--par--1793C--1-et--seq;
f225 ILCS 41073C7

Funeral Directors/Embalmer
(Any person can form a business
corporation to own a funeral home,
but the operation of a funeral home
is limited to a licensed funeral
director)

Chapter--117--par--2991--1-et--seq;
f225 ILCS 417

Speech-Language Pathologists
and Audiologists

Chapter--117--par--7981--1-et--seq;
f225 ILCS 1107

Physicians, including osteopath,
psychiatrist and chiropractor

Chapter--117--par--4491--1-et--seq;
f225 ILCS 607

Dentists (Dental Hygienists)

Chapter--117--par--2301--1-et--seq;
f225 ILCS 257

Podiatrist

Chapter--117--par--4917
f225 ILCS 1007

Psychologist

Chapter--117--par--5311--1-et--seq;
f225 ILCS 157

Physical Therapist

Chapter--117--par--4211--1-et--seq;
f225 ILCS 907

Occupational Therapist

Chapter--117--par--3701--1-et--seq;
f225 ILCS 757

Clinical Social Workers

Chapter--117--par--6911--1-et--seq;
f225 ILCS 207

Interior Design

Chapter--117--par--8201--1-et--seq;
f225 ILCS 3107

Nutritionists and Dieticians

Chapter--117--par--8401--1
f225 ILCS 307

Pharmacist

Chapter--117--par--4111--1-et--seq;
f225 ILCS 857

Nurses

Chapter--117--par--3501--1-et--seq;
f225 ILCS 657

Public Accountants

Chapter--117--par--5500--1-et--seq;
f225 ILCS 4507

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Shorthand Reporters

Chapter-111r-Par-6201-et-seq;
t225 ILCS 415+

Veterinarians

Chapter-111r-Par-7991-et-seq;
t225 ILCS 115+

Nursing Home Administrators

Chapter-111r-Par-3651-et-seq;
t225 ILCS 70+

Attorneys

Chapter-111r-Par-721
tSupreme Court Rule 721+

Optometrists

Chapter-111r-Par-3901-et-seq;
t225 ILCS 80+

Chiropractors

Chapter-111r-Par-4401-et-seq;
t225 ILCS 60+

Doctors

Chapter-111r-Par-4401-et-seq;
t225 ILCS 60+

This list was developed in coordination with the Department of Professional Regulation. The corporate purposes will include the language prescribed in subsections subsection (b) and (c) of this Section:

- b) Required language in incorporation documents for Professional Corporations.

1) Names

A professional corporation shall adopt a name consisting of the full or last name of one or more of its shareholders; except that if not prohibited by law, rules of a regulating authority or the canons of ethics of the professional concerned, a professional corporation may adopt a fictitious name. If the corporation does adopt a fictitious name or continues to use the name of a deceased shareholder or the name of a member of a predecessor organization, it shall file with the county clerk of the county where its principal place of business is located under the Assumed Business Name Act (111r-Rev-Stat-1991r-Ch-96r-Par-3m et-seq;) [4905 ILCS 405]t. It shall be permissible for a professional corporation to continue to use the name of a deceased shareholder for a period of one year after his death without recording the name of the corporation with the county clerk as hereinabove provided. A professional corporation may continue to use the name of a shareholder who voluntarily withdraws from the corporation if the withdrawing shareholder files with the regulating authority his written permission for the continued use of his name by the professional corporation.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

This permission shall remain in effect until written revocation has been received by the regulating authority from the former shareholder.

The corporation name shall end with the word "Chartered" or "Limited" or the abbreviation "Ltd.", or with the words "Professional Corporation" or the abbreviation "Prof. Corp." or the initials "P.C.".

2) Purpose

Professional Corporation: To practice the profession of rendering that type of professional service and services ancillary thereto.

Professional Service will be rendered from the following address: (address of the corporation)

3) Attorney's Under the Professional Service Corporation Act

The Articles of Incorporation of a Professional Service Corporation which is to be engaged in the practice of law must also contain, in the Articles, the following statement:

"All shareholders shall be jointly and severally liable for the acts, errors and omissions of the shareholders and other employees of the corporation, arising out of the performance of professional services by the corporation while they are shareholders."

- c) Required language in incorporation documents for Medical Corporations.

1) Names

The corporate name shall end with the word "Chartered" or "Limited" or the abbreviation "Ltd." or the words "Service Corporation" or the abbreviation "S.C."

2) Purpose

Medical Corporation: To own, operate and maintain an establishment for the study, diagnosis and treatment of human ailments and injuries, whether physical or mental, and to promote medical, surgical and scientific research and knowledge; provided that medical or surgical treatment, consultation or advice may be given by employees of the corporation only if they are licensed pursuant to the Medical Practice Act (111r-Rev-Stat-1991r-Ch-111r-Par-14001-et-seq;) [425 ILCS 601r-et-seq;].

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: General Not For Profit Corporations

2) Code Citation: 14 Ill. Adm. Code 160

3) Section Number:

Proposed Action:

160.10 Amendment
160.11 Amendment
160.12 Amendment
160.13 Amendment
160.14 Amendment

4) Statutory Authority: Implementing and authorized by the General Not for Profit Corporation Act of 1986 [805 ILCS 105]

5) A Complete Description of the Subjects and Issues Involved: The rules set forth the definitions of terms; the location of the office at which to file corporation documents and business hours; the type of information available for purchase and the requirements to obtain it; the type of payment that is acceptable; and the fee and address to mail requests for abstracts.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756
217/782-9524

12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any type of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

The full text of the proposed rules begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER 1: SECRETARY OF STATE

CS: 1.5

GENERAL NOTE FOR PROFIT CORPORATIONS

Notes

- 160.10 Definitions
- 160.11 Office Location and Business Hours
- 160.12 Sale of Information
- 160.13 Fees
- 160.14 Abstracts and Records
- 160.15 Hearings
- 160.16 Names
- 160.17 Service of Process

AUTHORITY: Implementing and authorized by the General Act for Profit Corporation Act of 1986 (805 LCS 105).

SOURCE: Adopted at 11 Ill. Reg. 10309, effective June 1, 1987; amended at 20 Ill. Reg. _____, effective _____.

Section 160.10 Definitions

"Department" shall mean the Department of Business Services Corporations of the Office of the Secretary of State.

"Director" shall mean the Director of the Department.

"VZP" shall mean the General Not for Profit Corporation Act of 1986
 (1805 ICS 105) & Ill-Rev-Stat--1986 Supp-Chap-11-101 et seq.
 set.

"Secretary" shall mean the Secretary of State of Illinois.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 160.11 Office Location and Business Hours

- a) The documents to incorporate an Illinois not for profit corporation shall be filed at the following address:
Department of Business Services Corporations
Room 308, Howlett Government Building
Springfield, Illinois 62756.
- b) The business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

(Source: Amended at 20 Ill. Reg. effective

Section 160.12 Sale of Information

- a) The master not for profit corporation list computer format includes the file number, the corporate name, the date of incorporation or qualification, the registered agent's name and the registered office address, the duration of the corporation, and the years in which the two previous annual reports were filed. (The information available by means of a computer connection shall include all of the above and the microfiche roll and image number.) The fee for this list is \$1,500.00. No other corporate information in quantity shall be sold or otherwise made available for purchase or for free. This subscription does not prevent a member of the public from making inquiries or purchases of information concerning an individual corporation in which he or she is specifically interested. However, any person requesting information arranged by a specific field of the formats shall be referred to all commercial vendors of corporate information who have obtained the information (pursuant to 14 C.F.R. 150.230(b)(3)), and the Department shall not provide the corporate information to the requester. The Department shall not state any preference of commercial vendor to the requester, but shall provide all names and addresses of the commercial vendors to the requester. As of July 17, 1993, the commercial vendors include West-Data-Central, West-Publishing, Compaq-Precision, Information America and Betsatech.
- b) The list of condominium associations is available twice per year in microfiche form for a fee of \$150.00 per set, payable by certified check or money order to the "Secretary of State". The sets may be ordered in writing from the Director. When the purchaser's request is approved by the Director and the fee paid, no refunds shall be made.
- c) The Department shall sell to the public after January 1, 1988, on a twice per year basis, microfiche sets of the lists of Cooperative Housing Associations and Homeowners Associations, at a fee of \$150.00 per set, the fee to be paid by certified check or money order made payable to the "Secretary of State". The sets may be ordered in writing from the Director. When the purchaser's request is approved by the Director and the fee paid, no refunds shall be made.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 160.13 Fees

All payments of fees with respect to original articles of incorporation, applications for original certificates of authority and applications for reinstatement of domestic or foreign corporations shall be by money order.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

certified check, cashier's check or a check drawn on the account of an Illinois attorney or certified public accountant, payable to the "Secretary of State." All other payments may be made by personal or business firm check, payable to the "Secretary of State."

All fees for filing of any document or copies of any document, as set forth in this Part, shall be paid only by money order, certified check, cashier's check or a check drawn on the account of an Illinois licensed attorney or certified public accountant made payable to the "Secretary of State."

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 160.14 Abstracts and Records

- a) An abstract of corporate record of a corporation shall consist of a hard copy print-out of the information shown on the computer records of the Department of Business Services Corporations of the Office of the Secretary of State.
- b) All requests for abstracts of corporate records shall be in writing and shall be sent to the following address:
Department of Business Services Corporations
Room 328, Howlett Centennial Building
Springfield, Illinois 62756
Attention: Abstracts
- c) The fee for each abstract of corporate record shall be \$5.00 \$2.00 and must accompany the written request.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Limited Liability Company Act
- 2) Code Citation: 14 Ill. Adm. Code 178
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
178.10	Amendment
178.55	Amendment
178.145	Amendment
178.170	Amendment
178.185	Amendment
- 4) Statutory Authority: Implementing and authorized by the Limited Liability Company Act (805 ILCS 180)

5) A Complete Description of the Subjects and Issues Involved: The rules set forth definitions of terms relating to the Limited Liability Company Act; the type of payment accepted for specific filings under the Act; the exceptions in checking name availability under the Act; the acceptable characters in a name under the Act; and the need for adoption of an assumed name by a foreign limited liability company under the Act.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756
217/782-9524

12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any type of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

The full text of the proposed rules begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 178
LIMITED LIABILITY COMPANY ACT

SUBPART A: RIGHTS AND REQUIREMENTS

- Section
- 178.10 Definitions
- 178.15 Applicability
- 178.20 Filing Requirements
- 178.25 Additional Requirements for Forms
- 178.30 Filing Location
- 178.35 Business Hours
- 178.40 Sales of Information
- 178.45 Right to Counsel
- 178.50 Service of Process
- 178.55 Payment of Fees
- 178.60 Refunds

SUBPART B: NAMES

- Section
- 178.100 Availability of Names: Statutory Requirements
- 178.105 Preliminary Determination of Availability
- 178.110 Final Determination of Availability
- 178.115 Response as to Basis of Unavailability
- 178.120 Reconsideration Procedure
- 178.125 Effect of Final Determination
- 178.130 Standards - Conflicting Names
- 178.135 Distinguishable - Defined
- 178.140 Matters Not Considered
- 178.145 Significant Differences
- 178.150 Surnames
- 178.155 Alphabet Names
- 178.160 Government Affiliation
- 178.165 Restricted and Professional Words
- 178.170 Acceptable Characters of Print
- 178.175 Invalidity
- 178.180 Assumed Names
- 178.185 Foreign LLC with Prohibited Names

AUTHORITY: Implementing and authorized by the Limited Liability Company Act [805 ILCS 180].

SOURCE: Adopted at 17 Ill. Reg. 22055, effective January 1, 1994; amended at

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

20 Ill. Reg. _____, effective _____,
"Secretary of State" or by credit card. All other payments may be made by an entity check, payable to the "Secretary of State." Any check that is returned by the bank to the Secretary of State's Office for any reason will immediately void the transaction for which it was intended and the Secretary of State will treat the filing event as never occurring.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: NAMES

Section 178.145 Significant Differences

Limited liability company names are deemed not to be distinguishable when a comparison of the names reveals no difference except for:

- one or more of the following: limited liability company or LLC, regardless of where in the name such may appear;
- the inclusion or omission of articles of speech, conjunctions, contractions (or symbols thereof), prepositions, or a letter or letters;
- an abbreviation versus a spelling out of a word; a different tense of a word; or the use of the singular as opposed to the plural of a word;
- the spacing of words, the combination of commonly used two-word terms (including points of the compass), the misspelling, phonetic spelling or any other deviation or derivation of substantially the same base word, abbreviation or symbol;
- the presence or absence of multiple letters within a word.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 178.170 Acceptable Characters of Print

The limited liability company name must consist of letters of the English alphabet, Arabic or Roman numerals, and/or symbols capable of being readily reproduced by the Office of the Secretary of State [§805 ILCS 5/4.05]17.

- Letters of the English alphabet include upper case or capital letters only; no distinction as to type face or font is recognized.
- Arabic numerals include: 0, 1, 2, 3, 4, 5, 6, 7, 8, 9
- Roman numerals characters include: I, V, X, L, C, D, M
- Symbols recognized by the Secretary of State include: @ # \$ % & * () - + = : " ; / ? , .

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 178.185 Foreign LLC with Prohibited Name

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

20 Ill. Reg. _____, effective _____.

SUBPART A: RIGHTS AND REQUIREMENTS

Section 178.10 Definitions

In addition to the definitions contained in Section 1-5 of the Limited Liability Company Act [§805 ILCS 180]17 the following definitions shall apply:

"Abstracts of Limited Liability Companies" shall consist of a hard copy print-out of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

"Delinquent" or "Delinquency" shall mean a status of a limited liability company that is in non-compliance with this Act.

"Department" shall mean the Department of Business Services of the Office of the Secretary of State located in Springfield.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether the limited liability company has complied with the provisions of the Act.

"LLCA" shall mean the Limited Liability Company Act [§805 ILCS 180]17.

"LLC Division" shall mean that unit of the Department which administers the provisions of LLCA.

"Organizer" shall mean a person who has executed the original articles of organization.

"Secretary" shall mean the Secretary of State of Illinois.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 178.55 Payment of Fees

All payments of fees and penalties with respect to original articles of organization, applications for original admission to transact business, and applications for reinstatement of domestic or foreign limited liability companies, and report of penalty return to good standing shall be by money order, certified check, cashier's check or a check drawn on the account of an Illinois licensed attorney or certified public accountant, payable to the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

A foreign LLC that has a name prohibited by this Part may be admitted issued--a certificate--of--authority to transact business in this State, if the foreign LLC:

- a) Elects to adopt an assumed name or names in accordance with Section 13.180 of this Part; and
- b) Agrees in its application for admission a certificate of authority to transact business in this State only under such assumed name or names; and,
- c) Maintains the foreign assumed name on the records of the Office of the Secretary of State or the company becomes subject to revocation of its admission.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Revised Uniform Limited Partnership Act

- 2) Code Citation: 14 Ill. Adm. Code 170

- 3)

<u>Section Number</u>	<u>Proposed Action</u>
170.10	Amendment
170.11	Amendment
170.13	Amendment
170.14	Amendment
170.17	Amendment
170.40	New Section

- 4) Statutory Authority: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210].

- 5) A Complete Description of the Subjects and Issues Involved: The rules set forth the definition of the terms relating to RULPA; the location of the office at which to file RULPA documents; the type of payment that is acceptable; the procedure for service of process on limited partnerships; the type of information available for purchase and the requirements to obtain it; and the requirements for propounding interrogatories to whom they may be addressed and the time frame for completion. It further states that the information disclosed in the interrogatories is not open to the public.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporation by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756
217/782-9524

- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any type of small businesses and the proposed rule has not been submitted to

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

the Small Business Office of the Department of Commerce and Community Affairs.

- 13) Regulatory Agenda on which this rulemaking was summarized January 1996

The full text of the proposed rules begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER 1: SECRETARY OF STATE

PART 170

REVISED UNIFORM LIMITED PARTNERSHIP ACT

Section	
170.10	Definitions
170.11	Filing Locations
170.12	Business Hours
170.13	Fees
170.14	Service of Process
170.15	Additional Requirements for Forms
170.16	Assumed Names
170.17	Sale of Information
170.20	Filing Requirements
170.30	Refunds
170.40	Interrogatories

AUTHORITY: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210].

SOURCE: Adopted at 11 Ill. Reg. 10314, effective July 1, 1987; amended at 14 Ill. Reg. 1480, effective January 15, 1990; amended at 16 Ill. Reg. 11196, effective July 1, 1992; amended at 17 Ill. Reg. 427, effective January 1, 1993; amended at 20 Ill. Reg. _____, effective _____.

Section 170.10 Definitions

In addition to the definitions contained in Section 101 of the Revised Uniform Limited Partnership Act [805 ILCS 210] ~~that Rev. Stat. 1991, ch. 196-1/27~~ ~~para. 151-2-et-seq.~~ the following definitions shall apply:

"Abstracts of Limited Partnerships" shall consist of a hard copy print-out of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"RULPA" shall mean the Revised Uniform Limited Partnership Act [805 ILCS 210] ~~that Rev. Stat. 1991, ch. 196-1/27, para. 151-2-et-seq.~~

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

"RULPA Division" shall mean that unit of the Department which administers the provisions of RULPA.

"Secretary" shall mean the Secretary of State of Illinois.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 170.11 Filing Locations

- a) All documents required to be filed with the Secretary of State pursuant to the RULPA shall be filed with the Department.
- b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address:
Department of Business Services
Limited Partnership Division
Room 330, Howlett Center Building
Springfield, Illinois 62756
- c) Documents submitted by mail for filing should be sent to the Department's Springfield office:

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 170.13 Fees

All fees for filing of any document, or copies of any document, as set forth in this Part or in Section 1102 of the RULPA, shall be paid only by money order, certified check, cashier's check, or a check drawn on the account of an Illinois licensed attorney or certified public accountant, made payable to the "Secretary of State" or by an approved credit card Visa or Mastercard payment.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 170.14 Service of Process

- a) For the purposes of Sections 107 and 909 of the RULPA, the procedures set forth in this Section shall apply.
- b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, or the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:
 - 1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/Art. II, Part 2], (411r-Rev-Stat-1991r-chr-119r-2-291-et-seq,7 the Federal Rules of Civil Procedure (28 USC)), or any administrative rules of service, as may be appropriate.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

- 2) The affidavit of compliance required by Section 107 and 909 of the RULPA to be appended to the process, notice or demand to be served, containing the information described in subsection (b) of this Section ~~herein~~, shall be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation of acknowledgment, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated therein are true.

c) The affidavit of compliance shall state:

- 1) the title of the court or administrative agency;
- 2) the title of the case, showing the names of the first named plaintiff and the first named defendant;
- 3) the number of the case;
- 4) the title of the instrument;
- 5) the title of the limited partnership to be served;
- 6) the basis for service on the Secretary;
- 7) the address to which the instrument is to be sent (by registered or certified mail) by the affiant;
- 8) the name, address and telephone number of the attorney of records for the plaintiff or other affiant.
- d) Service of any process, notice or demand made under this Part shall be had with the Department at Room 330, ~~Howlett Center~~ Building, Springfield, Illinois 62756.
- e) At the time of any service under this Part, there shall be paid a fee of \$25.00 (see 805 ILCS 210) (411r-Rev-Stat-1991r-chr-186r-12r-pars-151-2-et-seq,7, payable by check or money order to the "Illinois Secretary of State". Each process, notice or demand shall be submitted with a separate payment.
- f) The Department of Business Services shall maintain original file copies which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission (see 5 ILCS 160/15) (411r-Rev-Stat-1991r-chr-116r-pars-43r-19r).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 170.17 Sale of Information

- a) The Department of Business Services shall not reproduce, or sell any list of limited partnerships on file until July 1, 1991.
- b) Information concerning any limited partnership or limited partnerships shall be available to the public from the Department of Business Services upon written request, or by telephone request with advance payment using an approved credit card Visa or Mastercard when submitted by mail or in person at the offices of the Department as

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

stated in Section 170.11.

- c) Information concerning the limited partnerships on file with the Department shall be in the form of an abstract or record, printed from the computer file of the Department, and shall consist of the limited partnership name, its date of formation, any assumed name, its registered agent, the address of the office at which the records are maintained, the latest date at which the limited partnership will dissolve, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number with the Department. The fee for each abstract of record shall be \$10.00.
- d) Copies of all documents pertaining to limited partnerships on file with the Department are available upon written request submitted either by mail, in person or by telephone request with advance payment using an approved credit card ~~VISA or MasterCard~~ to the Springfield office of the Department. The fee for such copies, and certification of any documents, is at least \$10.00, as stated in 805 ILCS 210.1102 ~~411v-Rev-1991-CH-136-1-2-2-1192~~.
- e) Computer connections by non-department users

- 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.
- 2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at any time, should the connection interfere with the Secretary's internal work schedules and processing.
- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as statutory fees (see 805 ILCS 210.1102) ~~411v-Rev-1991-CH-136-1-2-2-1192~~ for certain types of information and the requirements of this Subpart.
- 4) No users may print any list or abstract from the computer connection. Lists of RULPA information including the names and

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

information concerning all limited partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's RULPA files may be made by any computer connection user.

- f) Terms and conditions for computer maintained RULPA information
- 1) The information supplied by the Department to other agencies, commercial users, or other person, shall be in the abstract format only, as specified in subsection (c) of this Section.
 - 2) The fee for the entire list of current and dissolved limited partnerships, and assumed names, shall be \$1,500.00. The weekly update list shall cost \$100.00 per week. This list is available on microfiche, or on computer tape. If the list is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes compatible with the Secretary's computer equipment, on to which tapes the information shall be transferred.
 - 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order, or an approved credit card ~~VISA or MasterCard~~ made payable to the "Secretary of State".
 - 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.
 - 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only on the basis of each limited partnership as needed by the subscriber.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

BSection 170.40 Interrogatories

- a) The Secretary of State may propound to any limited partnership subject to the provisions of the Act, and to any partner, such interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain whether the limited partnership has complied with all the applicable provisions of the Act and this Part. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her, and if directed to a limited partnership, they shall be answered by the general partners or limited partners. The Secretary of State need not file an document to which the interrogatories relate until the interrogatories are answered as herein provided and not then if the answers thereto disclose that the document is not in conformity with the provisions of the Act and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto that disclose a violation of any of the provisions of the Act and this Part.

- b) Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection, nor shall the Secretary of State disclose any facts or information obtained therefrom, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action by the State.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Uniform Commercial Code
- 2) Code Citation: 14 Ill. Adm. Code 180
- 3) Section Number
180.10 Proposed Action
180.11 Amendment
180.12 Amendment
180.13 Amendment
- 4) Statutory Authority: Implementing and authorized by Article 3 of the Uniform Commercial Code (810 ILCS 5/Art. 9).
- 5) A Complete Description of the Subjects and Issues Involved: The rules set forth the definition of the terms relating to the Uniform Commercial Code; the location of the office at which to file UCC documents and the business hours; the type of information available for purchase and the requirements to obtain it; and the type of payment that is acceptable.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporation by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 328, Howlett Building
Springfield, Illinois 62756
217/782-3524
- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any type of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed rules begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER 1: SECRETARY OF STATE

PART 120
UNIFORM COMMERCIAL CODE

Section

180.10 Definitions

180.11 Business Hours and Location

180.12 Sale of Information

180.13 Fees

180.14 Forms and Documents

AUTHORITY: Implementing and authorized by Article 9 of the Uniform Commercial Code (30 ILCS 5 Art. 9).

SOURCE: Adopted at 12 Ill. Reg. 1741, effective November 1, 1988; amended at 18 Ill. Reg. 1101, effective February 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 180.10 Definitions

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department.

"Secretary" shall mean the Secretary of State of Illinois.

"UCC" shall mean Article 9 of the Uniform Commercial Code (480 ILCS 5/Art. 9).

"UCC Division" shall mean that unit of the Department which records, maintains, supplies copies, and otherwise administers the UCC.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 180.11 Business Hours and Location

a) The UCC Division business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, in Springfield only.

b) The office address is Room 030, Howlett Center Building, Springfield, Illinois 62756.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Section 180.12 Sale of Information

a) Computer Records

1) The Uniform Commercial Code master file contained in the computer records of the Secretary of State, Department of Business Services, which consists of the name of the secured party, the name of the debtor, the address of both, the description code of the collateral, type of transaction and number of transactions, and other pertinent information required by Article 9 of UCC. The file shall be purchased only as a whole, for which the fee is \$2,500.00.

2) Weekly update through modem access only computer tapes shall be sold to any subscriber at the rate of \$20.00 per week and may provide master tapes, pickup and delivery services and name change services to contact persons. All requests must be in writing submitted to the Director.

3) Any purchaser of transmitted computer data shall sign a contract setting forth the terms and conditions of the sale, including the above described fees. Purchaser shall supply computer tapes of such quality to be compatible with the computer equipment used by the Department, as specified by the Data Processing Department, Office of the Secretary of State.

4) The fees shall be paid prior to the transfer of the information from the Secretary of State's Office to the purchaser, and shall not be refundable once the order is accepted by the Department. Acceptance shall be evidenced by the Department's signing of the contract.

b) Non-Computer Records

1) The daily list of UCC filings either in paper form, monthly microfilm rolls, or microfiche version of the filings, is available for purchase for a fee of \$250.00 per month. Purchases shall only be made on a twelve month subscription basis. A subscription can be ordered by written request submitted to the Director, and shall include the first month's fee.

2) The lists stated herein are not available in any other format.

c) Document Copies

1) Copies of documents on file with the UCC Division shall be requested only in writing, submitted by mail or in person to the UCC Division office.

2) The fee for any copy shall be \$1.00 per page (Section 9-407 of the UCC).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 180.13 Fees

a) The statutory fees applicable to the filing of documents with the UCC

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Division are stated in Sections 9-401 - 9-409 of the UCC.

- b) Acceptable form of payment: ~~Wish-Washcard~~ personal check, money order or any certified bank draft or by an approved credit card.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: College Savings Bond Bonus Incentive Grant (BSG) Program
- 2) Code Citation: 23 Ill. Adm. Code 2771
- 3) Section Numbers: Proposed Action:
2771.10 Amended
2771.Appendix A Amended
- 4) Statutory Authority: Implementing and authorized by Section 8 of the Baccalaureate Savings Act and by Section 75 of the Higher Education Student Assistance Act [110 ILCS 920/8 and 947/75].
- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Minor changes have been made to the bond sale dates listed in the table of grant amounts in Appendix A to more accurately reflect the actual bond issuance dates. This is merely a minor technical correction and does not change the amount of any grant awarded.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2771
COLLEGE SAVINGS BOND BONUS INCENTIVE GRANT (BIG) PROGRAM

Section	
2771.10	Summary and Purpose
2771.20	Definitions
2771.30	Program Procedures
APPENDIX A	Table of Grant Amounts

AUTHORITY: Implementing and authorized by Section 8 of the Baccalaureate Savings Act [110 ILCS 920/8] and by Section 75 of the Higher Education Student Assistance Act [110 ILCS 947/75].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15800, effective October 21, 1991, for a maximum of 150 days; emergency expired March 19, 1992; adopted at 16 Ill. Reg. 6873, effective April 14, 1992; amended at 18 Ill. Reg. 10245, effective July 1, 1994; amended at 19 Ill. Reg. 8312, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2771.10 Summary and Purpose

- The Baccalaureate Savings Act [110 ILCS 920/8] (~~ch. 114, par. 2431~~ ~~et seq.~~) authorizes the sale of Illinois College Savings Bonds and provides for a grant program as an additional financial incentive to encourage the use of proceeds from matured bonds at Illinois colleges or universities.
- This Part establishes Rules which govern the Bonus Incentive Grant (BIG) Program. Additional Rules and definitions are contained in the General Provisions, at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.
- The purpose of this Part is to establish the conditions and procedures for a Qualified Bond Holder to designate a Student Beneficiary as the recipient of a Bonus Incentive Grant and to outline the process by which a Student Beneficiary applies for and obtains this grant.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2771.APPENDIX A Table of Grant Amounts

GRANT AMOUNT PER \$5000 COMPOUND
ACCREDITED VALUE AT MATURITY

GRANT BOND MATURITY (August 1)	1/88 Bond Sale	10/88 Bond Sale	11/89/89 Bond Sale	11/89/90 Bond Sale	9/89/91 Bond Sale
1991	-	-	\$ 40	-	-
1992	-	-	\$ 60	\$ 40	-
1993	\$100	\$100	\$ 80	\$ 60	\$ 40
1994	\$120	\$120	\$100	\$ 80	\$ 60
1995	\$140	\$140	\$120	\$100	\$ 80
1996	\$160	\$160	\$140	\$120	\$100
1997	\$180	\$180	\$160	\$140	\$120
1998	\$200	\$200	\$180	\$160	\$140
1999	\$220	\$220	\$200	\$180	\$160
2000	\$240	\$240	\$220	\$200	\$180
2001	\$260	\$260	\$240	\$220	\$200
2002	\$280	\$280	\$260	\$240	\$220
2003	\$300	\$300	\$280	\$260	\$240
2004	\$320	\$320	\$300	\$280	\$260
2005	\$340	\$340	\$320	\$300	\$280
2006	\$360	\$360	\$340	\$320	\$300
2007	\$380	\$380	\$360	\$340	\$320
2008	\$400	\$400	\$380	\$360	\$340
2009	-	-	\$400	\$380	\$360

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2771.APPENDIX A Table of Grant Amounts

GRANT AMOUNT PER \$5000 COMPOUND
ACCREDITED VALUE AT MATURITY

GRANT BOND MATURITY (August 1)	10/92 Bond Sale	10/93 Bond Sale	10/94 Bond Sale
1994	\$40	-	-
1995	\$60	\$40	\$15
1996	\$80	\$60	\$40
1997	\$100	\$80	\$60
1998	\$120	\$100	\$80
1999	\$140	\$120	\$100
2000	\$160	\$140	\$120
2001	\$180	\$160	\$140
2002	\$200	\$180	\$160
2003	\$220	\$200	\$180
2004	\$240	\$220	\$200
2005	\$260	\$240	\$220
2006	\$280	\$260	\$240
2007	\$300	\$280	\$260
2008	\$320	\$300	\$280
2009	\$340	\$320	\$300
2010	\$360	\$340	\$320
2011	\$380	\$360	\$340
2012	\$400	\$380	\$360
2013	\$420	\$400	\$380
2014	-	\$420	\$400
2015	-	\$440	\$420
2016	-	-	\$440

*If no grant amount is shown, there were no bonds sold at that maturity for that particular issue.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: David A. DeBolt Teacher Shortage Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2764
- 3) Section Numbers:
 2764.30 Amended
 2764.40 Amended
- 4) Statutory Authority: Implementing Section 65.55 of the Higher Education Student Assistance Act (110 ILCS 947.65.55) and authorized by Sections 20(f) and 65.55 of the Higher Education Student Assistance Act (110 ILCS 947.20(f) and 65.55).

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2764.30(b)(4) has been modified to include students intending to seek initial certification in a teacher shortage discipline as qualified applicants. This is being done to preclude the unintentional disqualification of public community college students who are enrolled in courses that prepare them for eventual teacher certification, but who are not in a program that provides actual certification. The wording in Section 2764.30(d) has been modified to refer to the application form which must be completed. Section 2764.30(f)(5) has been added to provide a requirement similar to that being added for ISAC's other teaching programs. Recipients must agree to provide ISAC with evidence of compliance with program requirements through such activities as filling out annual questionnaires.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
 Compliance Counsel
 Illinois Student Assistance Commission
 1755 Lake Cook Road
 Deerfield, IL 60015
 (708) 948-9500

- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996
- The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION
PART 2764

DAVID A. DEBOLT TEACHER SHORTAGE SCHOLARSHIP PROGRAM

Section	Summary and Purpose
2764.10	Definitions
2764.20	DeBolt Scholar Eligibility
2764.30	Program Procedures
2764.40	Institutional Procedures

AUTHORITY: Implementing Section 65.55 of the Higher Education Student Assistance Act (110 ILCS 947/65.55) and authorized by Sections 20(f) and 65.55 of the Higher Education Student Assistance Act (110 ILCS 947/20(f) and 65.55).

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2764.30 DeBolt Scholar Eligibility

a) A completed application must be received in ISAC's Deerfield office on or before May 1 immediately preceding the Academic Year for which the scholarship is being requested, in order to receive priority consideration.

b) In addition to submitting an application on a timely basis, a Qualified Applicant must be:

- 1) a United States Citizen or an Eligible Noncitizen;
- 2) a Resident of Illinois;
- 3) a high school graduate or a person who has received a General Educational Development Certificate (GED); and
- 4) Enrolled, or accepted for enrollment, on at least a half-time basis at the sophomore level or above in a Teacher Education program at an eligible Illinois public or private university or college and intending to seek seeking initial certification in a Teacher Shortage Discipline.

c) Applicants will be notified if they are not Qualified Applicants. Such an Applicant may appeal a finding of ineligibility in accordance with 23 Ill. Adm. Code 2700.70, Appeal Procedures.

d) All Applicants must complete the form which the U.S. Department of Education designates as an application also apply for federal student financial aid to determine the expected family contribution (EFC) because the EFC will be used as part of the selection criteria for the purpose of determining eligibility for the DeBolt Teacher Shortage

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Scholarship.

- e) If the student section of an application is incomplete, notice will be sent to the Applicant. The Applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the student section is complete and received in ISAC's Deerfield office.
- f) Prior to receiving scholarship assistance for any Academic Year, the Qualified Applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following:

- 1) a pledge on the part of the DeBolt Scholar to teach for one year for each year of scholarship aid received in the Teacher Shortage Discipline for which the recipient applied, or any portion of a year for which aid was received, under this Part;
 - 2) a stipulation that such teaching requirement will be fulfilled within the five-year period following termination of the postsecondary education degree or certificate program for which the scholarship was awarded;
 - 3) a stipulation that such teaching requirement will be fulfilled at an Illinois public preschool, elementary or secondary school; and a further stipulation that, if the teaching requirement is not fulfilled, the scholarship converts to a loan and the DeBolt Scholar must repay the entire amount of the scholarship(s) prorated to the fraction of the teaching obligation not completed, plus interest at a rate no greater than the highest rate applicable to student loans under the Federal Family Education Loan Program and, if applicable, reasonable collection fees; and;
 - 5) a further stipulation that the DeBolt Scholar agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).
- g) A DeBolt Scholar shall not be in violation of the teaching agreement, and thus shall not be required to commence repayment as set forth in subsection (f) of this Section, if the recipient:
- 1) serves, for not more than three years, as a member of the United States armed services;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (f)(3) of this Section, and is able to provide evidence of that fact; or
 - 4) withdraws from a course of study leading to a teacher certification in a Teacher Shortage Discipline, but remains enrolled at least half-time in another academic discipline.
- h) A DeBolt Scholar shall not be required to repay the amount of the scholarship(s) received if s/he becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the Scholar has died.
- i) Renewal Applicants may receive a subsequent award even if their discipline is no longer in the approved list of Teacher Shortage Disciplines.
 - j) A DeBolt Scholar may receive up to 8 semesters/12 quarters of scholarship assistance under this program.
 - k) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an Academic Year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2764.40 Program Procedures

- a) Applications for the DeBolt Teacher Shortage Scholarship Program are available from qualified institutions throughout Illinois, state legislative and federal congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.
- b) ISAC shall accept applications to be a DeBolt DeBolt Scholar (or Scholar) in accordance with Section 2764.30 of this Part, DeBolt Scholar Eligibility.
- c) ISAC shall identify qualified applicants from applications submitted by the established deadline date.
- d) ISAC shall select the DeBolt Scholars from among qualified applicants based on the following criteria:
 - 1) Cumulative Grade Point Average (GPA). Cumulative GPAs will be prioritized from the highest to the lowest. All GPAs will be converted to a four-point scale.
 - 2) Expected Family Contribution (EFC). EFCs will be prioritized from the lowest to the highest.
 - 3) Minority Student Status. Minority students shall receive priority consideration.
 - 4) Renewal Applicant Status. Renewal applicants shall receive priority consideration provided the student:
 - A) continues to maintain a cumulative GPA of no less than 2.5 on a 4.0 scale;
 - B) maintains his or her status as a qualified applicant, as outlined in Section 2764.30(b) of this Part, DeBolt Scholar Eligibility;
 - C) continues to advance satisfactorily toward the attainment of a degree in a teacher shortage discipline; and
 - D) has submitted an application on a timely basis.
- e) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.
- f) The total number of scholarships awarded in a given fiscal year is

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- f) contingent upon available funding.
- g) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors established by this Section.
- h) ISAC shall annually establish and publicize guidelines for the awarding of DeBolt Scholarships.
- i) Notice of eligibility shall be sent to each qualified applicant who is selected to receive a DeBolt Scholarship. A notice will be sent to each qualified applicant who is not selected to receive a DeBolt Scholarship.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Federal Family Education Loan Program (FFELP)2) Code Citation: 23 Ill. Adm. Code 27203) Section Numbers: Proposed Action:

2720.20	Amended
2720.25	Amended
2720.30	Amended
2720.35	Amended
2720.41	Amended
2720.42	Amended
2720.50	Amended
2720.55	Amended
2720.60	Amended
2720.70	Amended
2720.80	Amended
2720.105	Amended
2720.120	Amended
2720.Appendix A	Repealed

4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2720.20(a)(4) is amended to reflect an existing practice regarding the electronic exchange of information. Loan guarantee data is provided to lenders only in an electronic format and, therefore, it is necessary for all lenders to transmit and receive information in this manner. Language is added to Section 2720.25(a) to reflect the fact that educational lenders must not only meet ISAC's requirements for institutional and lender eligibility, but must also meet federal requirements which apply exclusively to schools that make or originate loans. In Section 2720.25(b), the word "shall" is changed to "may" to more accurately reflect that approval of educational lender status is not automatic upon application, but rather is subject to meeting the specific terms and conditions of eligibility outlined in that Section. Section 2720.25(b)(3)(B) is amended to demonstrate that educational lenders must abide by federal requirements, instead of Appendix A of this Part, which is being repealed. New Section 2720.25(e) is being added to clarify that educational lenders must not only comply

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

with this Section to establish initial eligibility, but must continue to adhere to these rules to maintain continued eligibility. Section 2720.30(c) is updated to illustrate that a school can reestablish eligibility with ISAC after reestablishing eligibility for federal student financial aid programs. Section 2720.30(e) is revised to parallel federal requirements for the reporting of student enrollment information. Section 2720.35(d) is amended because loan guarantee data is provided to holders only in an electronic format and, therefore, it is necessary for all holders to transmit and receive information in this manner. Section 2720.41(b)(2) is rewritten to more clearly reflect the right of a borrower to change lenders after ISAC is notified of this election in a less cumbersome manner. Section 2720.42(a)(4) is added to specify that if, and when, a borrower's loans have been sold to different holders, the holder of the oldest loan has the ability to request that the subsequent loans be sold to it as well. The borrower has the ultimate right to determine where the loans are held. Section 2720.42(b)(2) is modified to illustrate that holders must not only initiate the sale of loans within required time frames, but must also ultimately conclude the sale prior to the loan entering default status so that claims can be filed by the correct holder. Section 2720.42(c)(2) is also revised to more accurately reflect the right of a borrower to change holders after ISAC is notified of this choice in a less burdensome manner. Section 2720.50(d) is modified to provide lenders with flexibility to choose the means with which to inform ISAC of loan disbursement dates from among a wider variety of methods identified in operational procedures. Section 2720.50(e)(1) is amended to give educational institutions the flexibility to require that all checks to students be made co-payable to the borrower and institution, thus providing greater control over the use of loan proceeds. Section 2720.50(e)(2) is updated to allow an additional 30 days for the late disbursement of loan proceeds in cases with documented exceptional circumstances, as provided for in 34 CFR 682.207(d)(2)(ii). Sections 2720.50(f), (g), (i) and (k) are all amended to reduce unnecessary detail, and to remove requirements which are no longer in effect. Due to frequent changes in the federal regulations governing the administration of the federal guaranteed student loan programs, specific instructions throughout this Part are replaced by references to the applicable sections of federal regulations. This will allow ISAC rules to remain current by reflecting changes to federal regulations as they occur, without the need for frequent rules amendments, and will eliminate redundancy by pointing to specific federal regulations with which ISAC lenders and institutions must already comply. In Section 2720.60(a), the requirement to provide a driver's license number is deleted since that information is no longer used. In Section 2720.60(c), the requirement for electronic preclaim filing is extended to smaller numbers of accounts in order to encourage this more efficient means of processing. Section 2720.60(d) is amended to incorporate federal regulations by reference and to eliminate the specific details of certain skip-tracing activities. In addition, the time frames within which a lender may and/or must file for preclaim assistance is

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

clarified. In Section 2720.80(a), the required time frames for remittance of insurance premiums is modified to reflect new procedures. Section 2720.80(c) is amended to, once again, incorporate federal regulations by reference, thereby eliminating the need for frequent revisions as federal policies and procedures change. And finally, as previously mentioned, Appendix A is repeated in its entirety since the necessary requirements for educational lender status are incorporated into Section 2720.35.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Act? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)) and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:
- Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-9500
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- 13) Regulatory Agency on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720

FEDERAL FAMILY EDUCATION LOAN PROGRAM
(FFELP)

SUBPART A: FEDERAL LOAN PROGRAMS:

THE FEDERAL STARFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section	Summary and Purpose
2720.5	Definitions
2720.6	Eligibility for ISAC Loan Guarantees
2720.10	Lender Eligibility
2720.20	Educational Institution Lender Eligibility
2720.25	Institutional Eligibility
2720.30	Holder Eligibility
2720.35	Procedures for Obtaining a Guaranteed Loan
2720.40	One-Lender Requirement
2720.41	One-Holder Requirement
2720.42	Procedures for Disbursement and Repayment
2720.50	Federal Consolidation Loan Program
2720.55	Reclaim Assistance
2720.60	Reimbursement Procedures
2720.70	Student Insurance Premium
2720.80	Guarantee Transfers
2720.90	

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section	Summary and Purpose
2720.105	IDAPP Eligible Loans
2720.120	IDAPP Eligible Lenders
2720.130	

SUBPART C: ISAC ORIGINATED LOANS

Section	Summary and Purpose
2720.200	ISAC Originated Consolidation Loans
2720.210	Illinois Opportunity Loan Program (IOP)
2720.220	Federal Family Education Loans (FFEL)

APPENDIX A Required Activities of Educational Lenders (Repealed)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act (110 ILCS 947.80 through 175); Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947.20(f)).

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 5 Ill. Reg. 8638, effective August 17, 1981; emergency rule and emergency repeal at 6 Ill. Reg. 7538, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15154, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 12009; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 19, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 23, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18370, effective October 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 11520, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Reg. 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Reg. 2720 (Illinois Student Assistance Commission) pursuant to P.A. 36-168, effective July 1, 1989, at 13 Ill. Reg. 17855; emergency amendment at 14 Ill. Reg. 4266, effective March 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10553, effective July 1, 1990; amended at 14 Ill. Reg. 10941, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 18769, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 4060, effective February 28, 1992; amended at 16 Ill. Reg. 11224, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 2055, effective February 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10506, effective July 1, 1993; amended at 18 Ill. Reg. 10254, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 15636, effective October 15, 1994, for a maximum of 150 days; emergency expired March 13, 1995; amended at 19 Ill. Reg. 6215, effective April 15, 1995; amended at 19 Ill. Reg. 8320, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: FEDERAL LOAN PROGRAMS:

THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section 2720.20 Lender Eligibility

a) Lender Agreement

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) All approved Lenders must execute an ISAC lender agreement prior to participating in the Federal Family Education Loan Program through ISAC. Lenders wishing to serve as Lenders of last resort are required to sign an additional agreement which includes the provisions of Section 428(j) of the Higher Education Act, as amended.
- 2) Lenders must have received ED approval prior to executing a lender agreement.
- 3) The lender agreement shall include provisions requiring Lenders to:
 - A) Comply with statutes, Federal Regulations, Rules, and procedures; and
 - B) Provide such information as ISAC may request relating to borrower demographics, collection records and other documents ISAC may need to comply with Federal Regulations. (See: Sections 2720.60(a) and 2720.70(c).)
- 4) Lenders and ISAC shall ~~may agree to electronically transmit and receive loan guarantee data.~~ ISAC shall provide the Lender with program documentation and reasonable technical assistance related to electronic data exchanges. ISAC and the Lender shall agree that the information and data shall be confidential and shall not be used, disclosed, sold or shared for any purpose other than those directly related to the administration of ISAC's Guaranteed Loan programs.
- 5) Termination of the lender agreement may be made by either the Lender or ISAC with ~~thirty-~~ 30 + days written notice. Termination shall not affect any obligations incurred prior to the time such termination becomes effective.
 - b) Eligible Lenders shall employ an adequate number of qualified persons to administer their responsibilities under the ISAC Rules. In determining whether a Lender employs an adequate number of qualified persons, ISAC considers the number of students aided, the number of applications evaluated and the amount of funds administered.
 - c) In addition to the provision of subsection (a), the lender agreement for insurance companies approved as Lenders shall require:
 - 1) advertising and promotional materials consistent with Section 149 of the Illinois Insurance Code [215 ILCS 5/149] and 50 Ill. Adm. Code 909; and
 - 2) compliance with Sections 421 through 434 of the Illinois Insurance Code, which prohibit unfair methods of competition and unfair and deceptive acts and practices [215 ILCS 5/421 through 434].
 - d) A loan guarantee shall be cancelled if the Lender fails to comply with Federal Regulations, statutes, ISAC Rules, or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the Lender for the defaulted loan.
 - e) ISAC conducts compliance reviews to determine if approved Lenders are complying with Federal Regulations, statutes and Rules.

ILLINOIS STUDENT ASSISTANCE COMMISSION

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

NOTICE OF PROPOSED AMENDMENT(S)

f) Lenders wishing to participate in ISAC-guaranteed loan programs shall submit an application which shall include, but not be limited to: servicing record; market appraisals; previous compliance and audit reviews conducted by other guarantors and the Department of Education; documentation relating to the percentage of student loans as compared to other installment loan portfolios; default rates; policy and procedures manuals; promotional materials; a statement relating to previous and anticipated loan volume; and other similar information relating to student loans requested by ISAC to show the Lender's qualifications for participation. Program participation will be determined by an examination of those materials and compliance with federal laws and regulations and State rules and statutes.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.25 Educational Institution Lender Eligibility

a) Educational Lenders must meet the eligibility requirements of Institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, Educational Lenders must comply with all Federal Regulations related to the organization, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601)

b) Illinois educational institutions may shall be approved as Lenders by the Commission if approved by ED and if the following requirements are met.

1) The specific materials to be provided by an Institution in seeking approval as an eligible Lender are:

A) An audited, certified, and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;

B) An institutional catalog, and a statement of the Institution's educational costs and refund policies;

C) A statement of the Institution's default/delinquency experience as a lender in the Federal Perkins Loan Program, FFESP, and/or Federal Insured Student Loan (FISL) program (20 U.S.C.A. 1071 et seq.) and a release to permit ISAC to solicit further data from ED or the Institution's service agency, if any, with respect to such records;

D) A statement which demonstrates the Institution's administrative ability to comply with all servicing

requirements of the program;

B) Bank and other credit references and a release to permit ISAC to inquire of these references;

E) A statement explaining the source of the Institution's lending capital;

G) A statement providing the amount of lending authority sought for the applicable fiscal year and an estimate of the lending volume expected in each of the two succeeding fiscal years; and

H) Any other materials which might be requested by ISAC to show the Institution's potential qualifications as a Lender.

2) In addition to the above materials, a school which is organized on a for-profit basis will be requested to submit a:

A) Copy of its student contract;

B) Description of its admission/sales staff and their functions;

C) Statement of the Institution's drop-out/Completion rates;

D) Sample of the Institution's advertising materials; and

E) Description of copies of student complaints filed with the Institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the Institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the Institution's accrediting association.

3) The applications for eligible Educational Lender status in the Programs and the supporting documentation shall be reviewed by ISAC. ISAC staff shall inform the applicant Institution of its proposed recommendations to the Commission prior to the meeting at which action on the application will be taken. The Applicant Institution shall also be informed of the recommendation for its annual lending limit, as well as any additions to the lender agreement which ISAC feels are prudent in individual instances to protect the default record of ISAC. The Institution shall also be informed that if it is not in agreement with any ISAC staff recommendations, it is entitled to representation at the Commission meeting and will be allowed to state its objections. If the Institution is approved by the Commission as an Educational Lender, ISAC will execute a Lender Agreement which will include:

A) The Institution's agreement to abide by the Rules of ISAC;

B) A statement of agreement including, or referring to, the list of required activities of Educational Lenders as outlined in 34 CFR 682.601, labeled as Appendix A of this Part;

C) A statement of agreement including, or referring to, the Federal Regulations with respect to loan disbursements and refund application;

D) A statement of agreement including, or referring to, the

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

a) All of a borrower's outstanding ISAC-Guaranteed Loans must be sold by a Lender to the same Holder.

1) If the Lender has sold any of a borrower's previous ISAC-Guaranteed subsidized or unsubsidized Federal Stafford Loan(s) or Federal SLS Loan(s) to an approved Holder, the Lender shall sell all subsequent loans to the same Holder by no later than 90 days from the borrower's last date of attendance or 180 days following the last disbursement, whichever occurs later; or in the event of untimely notification to the Lender of a student's change in enrollment status, no later than 45 days after the Lender became aware that the student ceased to be enrolled on at least a Half-time basis. (See Section 2720.130(d).)

2) Subsidized Federal Stafford Loans, unsubsidized Federal Stafford Loans and Federal SLS Loans which were made under the same common Application-Promissory Note for loan periods within the same Academic Year must be sold simultaneously.

3) If the Lender has sold the Applicant's previous ISAC-Guaranteed Federal PLUS Loans to an approved Holder, the Lender shall sell each subsequent Federal PLUS Loan for that borrower to the same Holder by no later than 90 days from the last date of attendance or 180 days following the last disbursement, whichever occurs later; or in the case of a late disbursement, the subsequent loan must be sold within 45 days following disbursement.

4) Upon notification by the Holder of the oldest previous loan, the Holder of any subsequent loan must sell that loan to the previous Holder, unless the borrower requests in writing that the previous Holder sell to the subsequent Holder.

b) Failure to sell the subsequent renewal loan by the deadline shall result in the loss of guarantee.

1) A guarantee may be reinstated if, within 90 days after identifying a loan in violation of subsection (a)(1), (a)(2), or (a)(3), or (a)(4) above, the Holder or Lender initiates the sale of the loan to the eligible Holder who purchased the Applicant's previous loan(s).

2) Initiation of the sale procedure within 90 days, and conclusion of the sale before the day the loan enters Default Status, will retroactively reinstate the guarantee to the date the guarantee was lost due to a violation of subsection (a)(1), (a)(2), or (a)(3), or (a)(4) above, provided no other violation of Federal Regulation or State rule exists.

3) Failure to initiate the sale of the loan within 90 days after identifying the violation will result in a permanent loss of guarantee for that loan. Failure to ultimately sell the loan to the Holder will also result in a permanent loss of guarantee for that loan.

c) The requirements of this Section shall not apply if:

1) the outstanding loans are held by a Holder which has been either

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

declared insolvent by a regulatory agency, has terminated its agreement with ISAC, or has withdrawn from all FTE programs.

2) ISAC is informed that the borrower has elected to have ~~ISAC~~ ~~an~~ ~~written~~ ~~that~~ ~~he~~ ~~is~~ ~~disseminated~~ ~~with~~ ~~the~~ ~~previous~~ ~~ISAC~~ ~~performance~~ ~~and~~ ~~requests~~ ~~that~~ ~~subsequent~~ ~~loans~~ ~~be~~ ~~held~~ ~~by~~ ~~sent~~ ~~to~~ ~~a~~ ~~different~~ ~~Holder~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.50 Procedures for Disbursement and Repayment

a) Disbursement and repayment procedures are specified in Federal Regulations.

b) Prior to Disbursement, the borrower(s) shall execute a completed application-promissory note(s) for the principal and interest on the loan(s) fees. The Lender shall retain the original copy of the application-promissory note.

c) The Lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower(s) behalf. The Lender shall not collect or attempt to collect from the borrower(s) or ISAC any portion of the interest on the loan which is payable by ED.

d) Except for loans pursuant to Section 2720.55, the Lender shall not disburse the proceeds of any loan on the borrower(s) behalf unless and until the Lender shall have received from ISAC evidence of a guarantee. The Lender shall inform ISAC of all disbursement dates through submissions of the Lender-manifest/insurance-premium-invoice system.

e) Federal Stafford and Federal PLUS loan proceeds shall be transmitted directly to the Institution.

1) Federal Stafford loan checks or electronically transmitted funds shall be payable to the student borrower unless the Institution requires all loan checks to be payable to the borrower and the Institution borrower has authorized in writing a co-payable loan check. Federal PLUS loan checks shall be co-payable or sent via EFT to the Institution and the parent borrower. Federal Stafford or Federal PLUS loan funds transferred either electronically or by Master Check shall be transmitted by the Lender to the Institution along with information identifying the name of each student on whose behalf loan proceeds are being transmitted, and the amount being transmitted on behalf of that student.

2) If the proceeds have not been disbursed to the Institution within 60 sixty days after the conclusion of the Term for which the loan was intended, or 90 days after the conclusion of the term, if exceptional circumstances are documented by the Institution in accordance with 34 CFR 692.207(d)(2)(ii), the loan guarantee

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

will be canceled.

- 3) If the student borrower has withdrawn from enrollment and Federal Regulations require the Institution to submit a refund to the Lender, either electronically or in the form of a check payable to the Lender on behalf of the borrower, the Institution shall provide simultaneous written notice to the borrower, student of the refund.

A) If the Institution fails to issue a timely refund, as defined by Federal Regulations, the Institution shall pay penalty interest.

B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.

C) The penalty interest shall be paid to the Lender or subsequent Holder.

F) The borrower(s) shall have the right to prepay without penalty the whole or any part of a loan guaranteed hereunder. Unless the borrower requests otherwise in writing, any prepayment made by the borrower shall be applied in accordance with the provisions of 34 CFR 682.209(b).

G) The Lender or Holder shall notify the borrower of the Options available, as specified in 34 CFR 682.209 date on which the repayment period begins, no later than 120 days after the borrower has left the eligible institution. The Lender or Holder shall send a repayment schedule to a FPEIP borrower no less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower.

H) The Lender or Holder shall notify ISAC of payment in full or prepayment in full by the borrower.

I) In accordance with Federal Regulations, the Lender or Holder may extend the maturity date of any note. If the Lender or Holder agrees to extend said note, then the borrower(s) must execute a forbearance agreement. A forbearance agreement may be approved for a period of up to one year at a time.

J) Lenders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by Section 428(c)(3)(D) of the Higher Education Act of 1965, as amended, and by Federal Regulations.

K) Borrowers are entitled to deferments, which extend the maturity date of any note(s), under conditions established by Federal Regulations. The borrower(s) shall be responsible for submitting to the Lender a completed deferment agreement and any corresponding documentation.

1) ISAC provides Lenders with the forms necessary for servicing their Guaranteed Loan portfolio (e.g., deferment forms, forbearance forms). With advance ISAC approval, Lenders may use non-ISAC forms. ISAC shall approve the use of alternative forms provided the alternative form is ED-approved and is compatible with ISAC's data processing requirements.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

m) No note shall be sold or transferred by the Lender except to an ISAC-approved Lender, an ISAC-approved Holder, or ISAC.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.55 Federal Consolidation Loan Program

a) ISAC shall guarantee Federal Consolidation loans pursuant to Section 428C of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1078-3).

b) Lenders may make Federal Consolidation loans provided participation in the Federal Consolidation Loan Program certification program is authorized by the lender agreement. (See: Section 2720.20(a).)

1) ISAC shall initially authorize a Lender to issue no more than \$5,000,000 in guaranteed Federal Consolidation loans.

2) A Lender may receive additional lending authority provided an ISAC compliance review indicates the Lender is complying with Federal Regulations, statutes and Rules. (See: Section 2720.20(f).)

c) All applications and promissory notes shall be in a form approved by ED. Lenders shall report to ISAC when a Federal Consolidation consolidation loan is made.

d) Lenders shall request preclaim assistance and reimbursement on Federal Consolidation consolidation loans in accordance with Sections 2720.60 and 2720.70.

e) Lenders shall pay the U.S. Department of Education all fees required by Section 428C(f) of the Higher Education Act, as amended, for Federal Consolidation loans made on or after October 1, 1993.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.60 Preclaim Assistance

a) ISAC functions in a supplementary role to assist the Lender or Holder in its collection of a loan that is at least 90 days delinquent. After requesting Preclaim Preclaim assistance, the Lender or Holder shall continue to proceed with normal collection activity. The following information is requested with the request for assistance, if available:

- 1) Name and social security number, and state driver's license number;
- 2) Employer's name and telephone number;
- 3) Home address and telephone number;
- 4) Identification of the problem;
- 5) Date and amount of each payment;
- 6) Loan amounts; and

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 7) Number of days delinquent.
- b) The request for preclaim assistance must be sent to ISAC no earlier than 80 days after the first day date of Delinquency and no later than 100 days after the first day date of Delinquency. For accounts paid less than monthly (e.g., quarterly), the request for preclaim assistance must be filed no earlier than the 10th day of Delinquency and no later than the 160th day of Delinquency.
- c) For ten one-hundred or more accounts submitted in at one month, time the request for preclaim assistance must be submitted electronically on-computer-tag, in a format approved by ISAC, from which collection action can begin immediately.
- d) If a borrower's address is unknown, the Lender shall attempt to locate the borrower pursuant to Federal Regulations. (See CFR 682.411.) ~~prior to requesting preclaim assistance these attempts include written and telephone inquiries to the institution the borrower at both the school and permanent address and the borrower's references. The Lender may shell file for preclaim or skip-tracing assistance when it has completed its skip tracing efforts. If it has not already done so, the Lender shall file for assistance within 10 days before or after either at the 90th day of Delinquency for loans due paid monthly, or at the 150th day for loans that are due paid less than monthly, whichever occurs first.~~
- e) When a Lender files for preclaim assistance, that Lender is automatically filing for supplemental preclaim assistance (the collection assistance provided by ISAC after the loan is 120 days delinquent).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.70 Reimbursement Procedures

- a) If a borrower dies or becomes permanently and totally disabled, the Lender or Holder shall request reimbursement from ISAC within 60 days from the date the Lender or Holder receives a completed request for loan cancellation or forgiveness.
- b) Requests for default reimbursement must be submitted to ISAC no earlier than 180 days after the first day date of Delinquency and no later than 270 days after the first day date of Delinquency. The Lender or Holder shall be reimbursed, in accordance with Federal Regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS loan, the borrower, Co-maker and Endorser must meet the default criteria contained in Federal Regulations.
- c) The Lender or Holder must request ISAC reimbursement for a bankruptcy claim in accordance with Federal Regulations and the Higher Education Act of 1965, as amended. (See, e.g.: 34 CFR 682.402.) The request for reimbursement must be submitted within 30 days after the Lender's

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- or Holder's receipt of notice that collection on the debt is stayed. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS loan, the borrower, Co-maker and Endorser must meet the bankruptcy criteria contained in Federal Regulations.
- d) Prior to reimbursement, the Lender or Holder must certify compliance with federal due diligence requirements and subsection (h) of this Section.
- e) Prior to reimbursement, the Lender or Holder must have remitted the insurance premium established by Section 2720.80.
- f) The Lender or Holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or certified, true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been erroneously stamped "paid in full", or lost, the Lender or Holder shall execute a hold harmless agreement with ISAC.
- g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in Section 682.202 (f) and (g) of Federal Regulations, including the student insurance premium, and the federal loan origination fee, shall be contracted for or received by the Lender.
- h) The Lender or Holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by Federal Regulations. (See, e.g.: 34 CFR 682.411.)
- i) ISAC shall collect the outstanding amount on the reimbursed Guaranteed Loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of Federal Regulations. (See 34 CFR 682.410.)
- j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.
- 1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.
- 2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See: 23 Ill. Adm. Code 2700.40(a)(1).)
- 3) ISAC shall notify a borrower of the possibility of an offset no less than fifteen days prior to the first offset. ISAC shall not provide additional notice of subsequent offsets for the same debt. Should the borrower dispute the debt, an appeal must be filed within fifteen days of the date of the notice. Appeals will be processed in accordance with 23 Ill. Adm. Code 2700.70. If the requested relief is granted, the funds offset shall be returned to the borrower.
- 4) Funds eligible to be offset include, but are not limited to,

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

State state income tax refunds and the wages of State state employees.

- k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to a credit bureau or assesses collection costs against the borrower, in accordance with Federal Regulations (34 CFR 682.410(b)(5)(ii)(c)).

- 1) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 483A of the Higher Education Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.80 Student Insurance Premium

- a) ISAC charges each borrower and insurance premium on each Guaranteed Loan. The premium(s) premium is collected by the Lender and must be remitted to ISAC no less frequently than monthly by the tenth day of the second month following Disbursement.

- b) The amount of the premium collected on each loan shall be no greater than the maximum permitted by the Higher Education Act, as amended. The exact amount of the insurance premium shall be computed by ISAC and disclosed to the borrower on the notice of guarantee disclosure statement. The rate of the insurance premium shall be determined by resolution of the Commission. When establishing the rate of the insurance premium, the factors to be considered by the Commission include: the solvency of the Student Loan Revolving Fund, projected application volume, and the timeliness of payments from ED pursuant to the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.).

- c) Refunds No-refunds of insurance premiums shall be made to the borrower in accordance with Federal Regulations. (See 34 CFR 682.401(b)(10)(vi).) after the loan check has been endorsed by the borrower or for electronically transmitted funds, the funds have been applied to the individual student's account from the institution's restricted account unless the loan check is returned uncashed to the lender or returned by check or electronically to the lender or the loan is repaid in full within 180 days of disbursement.

- d) The insurance premiums shall be deposited in the Student Loan Revolving Fund. In accordance with Federal Regulations, such proceeds may only be used to reimburse Lenders for defaulted Guaranteed Loans, to pay for the administrative expenses of ISAC or to pay the reinsurance fee assessed by the Department of Education.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section 2720.105 Summary and Purpose

- a) The Commission provides a secondary market for ISAC Guaranteed Loans through the Illinois Designated Account Purchase Program (IDAPP). ISAC's secondary market reduces the administrative expenses of lenders and increases the availability of Guaranteed Loans.

- b) Through IDAPP, ISAC purchases eligible loans from IDAPP-eligible Lenders. Sales to ISAC are conditional upon the execution of a contract between the eligible Lender and ISAC, and the eligible Lender's good faith compliance with the contract.

- c) Also through IDAPP, ISAC services eligible loans from IDAPP-eligible Lenders. Services provided pursuant to this Support are conditional upon the execution of a contract between the eligible Lender and ISAC.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2720.120 IDAPP Eligible Loans

- a) Original Contract Program

- 1) ISAC will purchase Guaranteed Loans which are no more than 90 days delinquent on installments of principal or interest and Guaranteed Loans for which the borrower has failed to meet other contractual obligations. Loans in default are not eligible for purchase and should be submitted for reimbursement in accordance with Section 2720.70.

- 2) Under this program ISAC will also purchase Guaranteed Loans in deferred status because of the borrower's unemployment or which have been granted a forbearance by the Lender.

- 3) All accounts submitted for purchase must have an annual cumulative average loan size of at least \$2,000.

- b) The loan lender must be in compliance with Federal Regulations and ISAC Rules up to the date of the sale. ISAC will decline to purchase any account if the Lender cannot demonstrate the loan was originated and serviced in accordance with all program requirements.

- c) If a Lender requests ISAC to purchase an account that was previously rejected for purchase by a different secondary market, ISAC will purchase the account only if the loan is current (not in Delinquency status) and has an outstanding balance of at least \$3,500.

- d) In cases where a borrower's loan is held by ISAC and the borrower requests a renewal loan, and where such borrower has established a satisfactory relationship with ISAC, the original Lender must agree to make the renewal loan to the borrower with the understanding that such loan will be purchased by ISAC to consolidate the student's indebtedness. (See: Section 2720.42.)

- e) Default Prevention Program

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

Section Numbers:	Proposed Action:
2700.20	Amended
2700.30	Amended
2700.40	Amended
2700.50	Amended
2700.55	Amended
2700.70	Amended

4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ICS 947/80 through 175]; Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1070 et seq., as amended by P.L. 102-325); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ICS 947/20(f)].

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: In Section 2700.20, the definition of "Commission" has been modified to reflect the increase in size of the Commission from nine to ten members. P.A. 89-0419 added a new member to the Commission, effective July 1, 1996, who is to be designated to serve expressly as a representative of public community colleges. The term "dependent student" has been broadened to include recipients of tuition waivers, who had been inadvertently omitted previously. Section 2700.30(e) has been amended to change the date by which institutions are annually required to report their tuition and fee charges from June 1 to May 1. This change is being made in order to facilitate the earlier announcement of awards to students. Sections 2700.30(i)(1)(A) and 2700.30(i)(1)(B) have been moved to other Sections of this Part where they fit more logically. In Sections 2700.30(i)(3) and 2700.30(i)(4), the word "shall" has been changed to "may" to more accurately reflect that approval for institutions to participate in ISAC's programs is not automatic upon application, but rather is subject to meeting the specific terms and conditions of eligibility outlined in that Section. Section 2700.30(j) has been amended to require that institutions participating in ISAC programs report their Office of Postsecondary Education (OPE) identification numbers to this agency. This ID number, assigned by the U.S. Department of Education (ED) to all institutions participating in its student financial assistance programs, allows ISAC to more effectively monitor important information, such as changes in eligibility. Section 2700.30(l) has been added to clarify that institutions with more than one OPE-ID number will be treated as separate entities. Section 2700.30(m)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

has been added to require each institution to submit to ISAC its Federal Employer Identification Number (FEIN). This number is needed in order to process payments through the State Comptroller's office. The provisions of Section 2700.40(a) have been broadened to exclude defaulters on all types of loans made under Title IV of the Higher Education Act from eligibility for ISAC assistance. As a result, defaulters on Federal Direct Student Loans are treated the same as borrowers who defaulted on other types of student loans. Due to frequent changes in the federal regulations governing the administration of the federal guaranteed student loan programs, the specific details contained in Section 2700.40(a)(1)(A) have been replaced by references to applicable federal regulations, which govern the reinstatement of eligibility for borrowers who had previously defaulted on these loans. This will allow ISAC rules to be more current by reflecting changes to federal regulations as they occur, without the need for frequent rules amendments. Section 2700.43(a)(1)(C) has been amended to clarify the terms for which gift assistance eligibility may be reinstated for borrowers who had previously defaulted on student loans. Section 2700.40(i) clarifies that applicants for ISAC-administered programs are expected to comply with the Selective Service registration requirements set forth in federal regulations, rather than simply submitting documentation. Section 2700.40(k) has been moved from 2700.30(i)(1)(B) and clarifies that State law allows incarcerated students to receive benefits only under the Illinois National Guard and Veteran Grant Programs. Section 2700.50(c) has been modified to identify the specific time frame within which institutions must make refunds to ISAC for payments made on behalf of students who are no longer eligible for all or part of their awards. If refunds are made on a timely basis, ISAC will be in a better position to reallocate the unused funds to other students within the same academic year. Section 2700.50(d) has been clarified and moved from Section 2700.30(i)(1)(A). Section 2700.50(g) has been revised so that students who received a MAP award during the previous academic year need not have their Illinois residency verified again the following year. Section 2700.55(g) has been deleted in its entirety since electronic data exchanges are becoming a necessity and because ISAC wants to encourage technological advances. Furthermore, many of the requirements in that subsection are conditions of initial or continuing eligibility and are contained elsewhere in ISAC's Administrative Rules. Minor revisions have been made to Sections 2700.70(e)(2) and 2700.70(e)(3) to reflect changes being made to Part 2790, and to clarify that an independent hearing officer's decision can be appealed to the Commission.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 905/3(b)) and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:
- Ms. Paquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-8500
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996
- The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION
PART 2700
GENERAL PROVISIONS

Section

2700.10	Summary and Purpose
2700.20	Definitions
2700.30	General Institutional Eligibility Requirements
2700.40	General Applicant Eligibility Requirements
2700.50	Determining Applicant Eligibility
2700.55	Electronic Data Exchanges
2700.60	Audits and Investigations
2700.70	Appeal Procedures

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act (110 ILCS 947/80 through 175); Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1070 et seq., as amended by P.L. 102-325); and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947/20(f)).

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1996; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14392, effective August 10, 1987; amended at 12 Ill. Reg. 11810, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2700.20 Definitions

"Academic Level" - The classification of a student as freshman, sophomore, junior, senior, or graduate student.

"Academic Year" - A twelve month period of time, normally from August or September of any year through August or September of the ensuing year.

"Applicant" - Any individual who requests ISAC consideration for a scholarship, grant, tuition waiver, or Guaranteed Loan guaranteed loan.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

"Chargeback" - Payment of tuition by the community college district of a student's residence to the community college district of a student's attendance. (See 110 ILCS 805/6-2.1)

"Citizen" - One who, under the Constitution and Laws of the United States, is a native-born or naturalized citizen of the United States of America.

"Commission" - The ten ~~nine~~ member Illinois Student Assistance Commission created by Section 15 of the Higher Education Student Assistance Act. (See 110 ILCS 947/15.1) +

"Concurrent Registration" - The simultaneous enrollment at two or more institutions.

"Consortium Agreement" - The written agreement between an institution eligible to participate in any of the programs administered by the Illinois Student Assistance Commission (as defined in Section 2700.30 Illinois Statutes) and subsequent parts of the ISAC Rules) and another institution whereby the second institution provides all or part of the education program of students enrolled in the eligible institution. ISAC reserves the right, after review of the agreement, to make the final decision regarding the amount, if any, and the destination of final Gift Assistance payment(s).

"Dependent Student" - A scholarship, loan, tuition waiver, or grant applicant or recipient who is not classified as an independent Student.

"ED" - The acronym for the United States Department of Education.

"Eligible Noncitizen" - For the purposes of these Rules, eligible noncitizen is defined as noncitizens eligible for federal student assistance pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See: 20 U.S.C.A. 1091.)

"Enrolled" - The status of a student who has completed the Institution's ~~institution's~~ registration requirements and is attending classes.

"Executive Director" - The chief executive officer of ISAC.

"Federal Regulations" - Refers to regulations promulgated by ED and codified at 34 CFR 600 et seq.

"Foreign Missionary" - An individual who is assigned duty outside of the United States by an organization that engages in education, philanthropic, humanitarian or altruistic works. The missionary

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

organization must be exempt from the payment of federal taxes and must have been engaged in placing Foreign Missions for at least five years. Examples of such missionary organizations include, but are not limited to, the following: Peace Corps, Evangelical Alliance Mission, etc.

"Full-time Student" - An individual enrolled for twelve or more credit hours, for either a semester or quarter term.

"Gift Assistance" - Student assistance funds in the form of a scholarship, grant or tuition waiver, including but not limited to, federal, State state, institutional and private aid.

"Good Moral Character" - An applicant is of good moral character if the applicant will benefit from postsecondary instruction and is allowed to enroll at an approved postsecondary institution.

"Guaranteed Loan(s)" - Loan assistance through the Federal Family Education Loan Program (FFELP) which includes the subsidized and unsubsidized Federal Stafford Loan, the Federal PLUS Loan, the Federal Supplemental Loans for Students (SLS), and the Federal Consolidation Loan programs.

"Half-time Student" - An individual enrolled for six or more credit hours (but less than twelve credit hours) for either a semester or quarter term.

"Independent Student" - For the purposes of these Rules, independent student is defined by Section 480 of the Higher Education Act of 1965, as amended by P.L. 102-325. (See: 20 U.S.C.A. 1087v.) A non-independent student is referred to as a Dependent Student.

"Institution" - Unless otherwise qualified, any secondary or postsecondary educational organization which enrolls students who participate in ISAC programs.

"Institution of Record" - The postsecondary institution at which a student is enrolled and seeking a degree or certificate. This institution assumes primary responsibility for certification of eligibility for ISAC-administered programs and for requesting payment from ISAC.

"ISAC" - The acronym for the Illinois Student Assistance Commission; the administrative agency created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15] to administer student assistance programs in Illinois.

"Mandatory Fees" - The charges assessed by an institution institution

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

to each and every Full-time Student for each Term. Application, graduation, laboratory, breakage and add/drop fees are specifically excluded. For the purposes of these Rules, Tuition is not a Mandatory Fee.

"Parent" - For the purposes of these Rules, "Parent" is defined at 34 CFR 668.2.

"Pell Grant" - A Federal Gift Assistance program administered by ED in accordance with Section 411 of the Higher Education Act of 1965, as amended. (See: 20 U.S.C.A. 1070a et seq.)

"Regular School Year" - An eight to nine month period of time which includes two semester Terms or three quarter Terms. The Regular School Year excludes summer Terms. Terms that begin after April 15 and end before September 16 are considered summer Terms.

"Remedial Courses" - The course work that prepares a student for study at the postsecondary level and must be necessary for the student to pursue the eligible postsecondary program.

"Resident of Illinois" -

A Dependent Student is a Resident of Illinois if the Parent of the dependent-Applicant, who is required by the instructions to complete the Free Application for Federal Student Aid (FAFSA), physically resides within the State of Illinois.

An Independent Student is a Resident of Illinois if the Applicant physically resides within the State of Illinois (at the time of application), and has so resided for a period of twelve continuous, full months immediately prior to September 1 of the Academic Year for which assistance is requested.

When an Applicant does not qualify as a Resident of Illinois under the preceding two subsections and the Applicant is a member of the U.S. Armed Forces or a Foreign Missionary, or is the dependent or the spouse of an individual who is a member of the U.S. Armed Forces or a Foreign Missionary, then the Applicant's residency shall be determined in accordance with this subsection.

An Applicant who is a member of the U.S. Armed Forces will be a Resident of Illinois if the Applicant physically resided in Illinois immediately prior to entering the U.S. Armed Forces, returned (or plans to return) to Illinois within six months of the conclusion of enlistment and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such enlistment.

An Applicant who is a Foreign Missionary will be a Resident of Illinois if the Applicant physically resided in Illinois for six continuous months immediately prior to entering missionary service, returned (or plans to return) to Illinois within six months of the conclusion of missionary service, and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such missionary service.

The dependent-Applicant shall be a Resident of Illinois notwithstanding the Parent(s)' temporary physical absence from Illinois provided the Parent(s) would be a Resident of Illinois under the preceding two subsections.

The spouse-Applicant shall be a Resident of Illinois immediately upon physically occupying a dwelling within the State of Illinois provided the Applicant can demonstrate that his/her absence from the State was the result of residing with the spouse during enlistment or missionary service outside of Illinois and that the spouse-Applicant's domicile continues to be the State of Illinois.

"Rules" - The rules of ISAC codified at 23 Ill. Adm. Code: Subtitle A, Chapter XIX.

"Satisfactory Academic Progress" - An institutional policy which establishes minimum standards of academic performance. For purposes of ISAC-administered programs, the standards must be at least as stringent as those required by ED pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See: 20 U.S.C.A. 1091.)

"Term" - A unit of time for student attendance, including, but not limited to, a quarter or semester.

"Tuition" - The charge for instruction assessed by a postsecondary institution.

"Verification" - Procedures implemented by postsecondary institutions to verify the eligibility of Applicants. The procedures are established by 34 CFR 668 et seq. and by these Rules.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2700.30 General Institutional Eligibility Requirements

a) ISAC Program Participation Agreement

1) All Institutions shall execute an ISAC Program Participation

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Agreement in order to participate in ISAC Gift Assistance programs.

- 2) The ISAC Program Participation Agreement shall identify the ISAC programs under which the Institution's students may receive benefits.
- 3) The ISAC Agreement shall include provisions requiring Institutions to comply with statutes, Rules and Regulations.
- 4) The ISAC Program Participation Agreement may be modified or terminated in accordance with 23 Ill. Adm. Code 2790, Limitation, Suspension or Termination Proceedings.
- b) With respect to ISAC student assistance programs, Institutions shall develop and maintain procedures to verify the consistency and accuracy of information received from their Enrolled recipients.
- c) Institutions shall be subject to possible Limitation, Suspension or Termination of eligibility for failure to comply with statutes, Regulations, Rules, or procedures and for failure to maintain the standards required by this Section for initial participation. (See: 23 Ill. Adm. Code 2790.)
- d) Postsecondary Institutions which participate in Gift Assistance Programs shall annually submit to ISAC a copy of both their Satisfactory Academic Progress Policy and their Tuition Refund Policy. Public postsecondary Institutions shall also submit a copy of their policy establishing a minimum grade point average for recipients of grants pursuant to the Illinois National Guard Grant Program and the Illinois Veteran Grant Program. Such submissions shall not be considered ISAC approval of such policies.
- e) Postsecondary Institutions which participate in Gift Assistance Programs shall annually report their Tuition and fee charges, as well as advance payment requests, to ISAC on or before May June 1 preceding each Academic Year.
 - 1) Failure to report any cost changes by the deadline will cause the prior year's charges to be used as part of the calculation process for Gift Assistance benefits. Failure to report the assessment of a fee charge by the deadline will result in that fee charge being ineligible for payment under ISAC Gift Assistance Programs.
 - 2) The report shall match specific fee charges with the Gift Assistance program(s) which may finance the fee. Such categorizations by the Institution shall not be considered ISAC approval.
 - 3) The Illinois National Guard Grant and the Illinois Veteran Grant (IVG) Programs may finance only a portion of certain fee charges. (See: 23 Ill. Adm. Code 2730.10(c) and 2733.20(f).)
 - A) Example: One fee finances both Tuition and text book expenses. Only the portion of the fee which is attributable to Tuition expenses may be financed with program benefits.
 - B) Institutions with such a fee shall certify what percentage of the fee is eligible to be financed with program benefits.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Certification shall be performed by the Institution's chief fiscal officer.

- f) Institutions shall submit additional reports, data and information to ISAC as may be requested. These inquiries include, but are not limited to, surveys, enrollment confirmations, and evaluation instruments.
- g) Additional institutional eligibility requirements are contained in subsequent parts of the ISAC Rules.
- h) Postsecondary Institutions may apply to participate in ISAC-Guaranteed Loan programs in accordance with 23 Ill. Adm. Code 2720.
- i) Postsecondary Institutions may apply to participate in ISAC Gift Assistance programs in accordance with this subsection.
 - 1) The Commission approves participation in ISAC Gift Assistance programs for an institution rather than for specific academic programs within an institution.
 - A) When requesting payment of benefits, institutions shall certify that accordance with ISAC Rules and Regulations, whether enrollment in a particular academic program is guaranteed or not, and that the recipient is an ISAC admitted beneficiary.
 - B) Students Enrolled in academic programs while incarcerated are eligible for ISAC Gift Assistance benefits.
 - 2) Prior to applying for participation in ISAC Gift Assistance programs, the institutional Applicant must have authority to operate a postsecondary institution in Illinois. (See: 23 Ill. Adm. Code 1030.)
 - 3) Institutional Applicants which are fully accredited by the North Central Association and have degree-granting authority shall be approved to participate in ISAC Gift Assistance programs provided the Institution meets and maintains the requirements of subsections (i)(4)(C) and (D) below.
 - 4) Institutional Applicants which do not meet the requirements of subsection (i)(3) above may be approved to participate in ISAC Gift Assistance programs if the Institution has:
 - A) obtained candidate status for North Central accreditation.
 - B) applied for and is seeking degree-granting authority.
 - C) obtained at least three letters indicating the transferability of academic credit from the Applicant Institution to other Institutions. The letters must be from Institutions which are approved to participate in the Monetary Award Program (MAP) and are fully accredited by the North Central Association. (See: 23 Ill. Adm. Code 2735.60.)
 - D) an adequate number of qualified persons to administer their responsibilities under the ISAC Rules. In determining whether an Institution employs an adequate number of qualified persons, the Commission considers the number of students aided, the number of programs in which the

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Institution participates, the number of applications evaluated, the amount of funds administered, and the financial aid delivery system used by the Institution.

- 5) Institutional applicants must also supply ISAC with audited financial statements, prepared by an independent third party in accordance with generally accepted accounting principles, to establish financial responsibility. (See, e.g., 34 CFR 668.15 668.13-end-4.)

- 6) Once approved to participate in ISAC Gift Assistance programs by the Commission, an Institution shall receive provisional eligibility for a minimum of five academic years.

A) On or before June 1 preceding each Academic Year, an Institution with provisional eligibility shall annually submit three letters indicating the transferability of academic credit to other institutions for the following Academic Year. These letters must be from ISAC-approved MAP Institutions which are fully accredited by the North Central Association.

B) An Institution with provisional eligibility must petition the Commission for full eligibility. Full eligibility will be granted if the Institution meets the requirements of subsection (1)(3) above and if there are no outstanding audit exceptions.

- J) As a condition of eligibility for participation in ISAC student assistance programs, postsecondary Institutions shall have a valid Program Participation Agreement with ED- (See Section 487 of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1094)) and shall report their Office of Postsecondary Education Identification (OPS-ID) number to ISAC.

- K) In order to begin and to continue participation in ISAC-administered student assistance programs, Institutions must also demonstrate administrative capability and financial responsibility, as defined by federal regulations. (See, e.g., 34 CFR 668.15 & 668.16 668.13-et seq.) An Institution's failure to meet and maintain those standards can lead to Limitation, Suspension or Termination proceedings. (See 23 Ill. Adm. Code 2790.)

- L) Institutions that have been assigned multiple OPS-ID numbers will be considered separate entities by ISAC.

- M) An Institution shall notify ISAC of its Federal Employer Identification Number (FEIN) in order to receive payment pursuant to any ISAC-administered program.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2700.40 General Applicant Eligibility Requirements

- a) Except as otherwise provided by this subsection, an Applicant with a

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

defaulted Guaranteed Loan made pursuant to Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1097a) is not eligible for benefits under ISAC-administered programs.

- 1) Eligibility for Guaranteed Loans future-terms may be reinstated in accordance with Federal Regulations and the following provisions:

A) Eligibility for ISAC-Guaranteed Loans will be reinstated when:

- i) the debt has been paid in full;
 ii) the borrower has made a "satisfactory six-consecutive voluntary full-monthly payments--that--are--reasonable and--affordable--based--upon--the--borrower's--total financial circumstances, as provided for in Section 428(f)(7) of the Higher Education Act, as amended, and 34 CFR 682.200 (see the definition of "satisfactory repayment arrangement" in accordance with 34 CFR 682.200 currently);

- iii) the borrower's prior defaulted loan(s) has been rehabilitated, in accordance with 34 CFR 682.405, by making twelve payments in an amount that will allow the debt to be paid in full within ten years; pursuant to Section 428(f)(7)(A) of the Higher Education Act, as amended; or

- iv) the borrower has made three-consecutive voluntary full-monthly payments on a defaulted loan(s) to Consolidate for the purposes of consolidating that loan(s) in accordance with under 34 CFR 682.201.

- B) Borrowers are eligible to use subsections (A)(i) and (A)(ii) above only one time during the entire life of any loan guaranteed by ISAC.

- C) Eligibility for ISAC-administered Gift Assistance will be reinstated for current and future terms when the Applicant has maintained a satisfactory repayment record for at least six consecutive months or has met the requirements of subsection (a)(1)(A) above. Factors to be considered by ISAC in evaluating the repayment record include: the amount of the debt, the amount of the payments received by ISAC, the employment status of the Applicant, and the frequency of the Applicant's contact with ISAC.

- 2) An Applicant for Illinois Veteran Grant (IVG) assistance (23 Ill. Adm. Code 2733) shall be permitted one term of assistance during which a satisfactory repayment record, as defined by subsection (a)(1)(C) above, must be established. If such a repayment record is not established, additional assistance shall be denied until a satisfactory repayment record is established.

- b) No Applicant shall receive ISAC-administered assistance if the Applicant owes a refund for any ISAC-administered Gift Assistance, a Federal Pell Grant, or a Federal Supplemental Educational Opportunity

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Grant (SEOG) (20 U.S.C.A. 1070(b)).

- c) An Applicant shall, upon request, provide documentation to establish and verify eligibility. (See: Section 2700.50.) Failure to supply adequate documentation will result in the denial of student assistance benefits.
- d) An Applicant supplying fraudulent data shall be denied assistance and may also be subject to prosecution by the Illinois Attorney General, United States Department of Justice and/or an Illinois State's Attorney.
- e) All Applicants must submit their Social Security Number.
- f) Recipients who cease to be Residents of Illinois after notification of eligibility may complete the Academic Year with the assistance awarded.
- g) Unless otherwise provided, benefits under Gift Assistance programs are subject to the limits of dollars appropriated to ISAC by the Illinois General Assembly and approved by the Governor. Benefits under Gift Assistance programs are generally limited to the Regular School Year. If funding is available, assistance for summer Terms shall be awarded separately.
- h) When Gift Assistance eligibility is limited to a specified number of Term payments, the eligibility cap is calculated in accordance with this subsection.
 - 1) For each semester Term of full-time payment benefits, the recipient is assessed six eligibility units. For each quarter Term of full-time payment benefits, the recipient is assessed four eligibility units.
 - 2) For each semester Term of half-time payment benefits, the recipient is assessed three eligibility units. For each quarter Term of half-time payment benefits, the recipient is assessed two eligibility units.
 - 3) Sixty eligibility units are the equivalent of payments for ten semesters/fifteen quarters of full-time benefits.
 - 4) Forty-eight eligibility units are the equivalent of payments for eight semesters/twelve quarters of full-time benefits.
- i) An Applicant shall comply with submit Selective Service registration requirements, pursuant to compliance--documentation--to--the postsecondary-institution-as-required-by 34 CFR 668.31 et seq.
- j) Except for grants pursuant to 23 Ill. Adm. Code 2730 (Illinois National Guard Grant Program) and 23 Ill. Adm. Code 2733 (Illinois Veteran Grant Program), an Applicant must be maintaining Satisfactory Academic Progress in accordance with the Institution's policy.
- k) Students Enrolled in academic programs while incarcerated are ineligible for ISAC Gift Assistance benefits, except for Illinois National Guard Grant and Illinois Veteran Grant program recipients.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2700.50 Determining Applicant Eligibility

- a) The evaluation of Applicant eligibility is the responsibility of both the Institution and ISAC.
- b) No Applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate state and federal agencies in the process of reviewing application data. Such agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Immigration and Naturalization Service (INS), Illinois Department of Public Aid, Illinois Department of Revenue, and Illinois Department of Children and Family Services.
- c) When requesting payment for ISAC Gift Assistance programs, the postsecondary Institution must certify that the Applicant's application are eligible for the assistance recipient. If an Institution subsequently determines a student is no longer eligible for all or part of the awarded assistance, the Institution must inform ISAC and submit the appropriate refund within 60 days after the receipt of payment or the end of a Term, whichever is later.
- d) When requesting payment of benefits, Institutions shall certify (in accordance with ISAC Rules and/or Federal Regulations) whether enrollment in a particular academic program qualifies the Applicant to claim ISAC-administered benefits.
 - e) If an Institution erroneously certifies an Applicant to be eligible, ISAC will recover the erroneous payment from the Institution. Any student who obtained ISAC-administered funds by submitting inaccurate information to an Institution must tender restitution to the Institution to be eligible for ISAC assistance at that Institution.
 - f) If an Applicant is selected for Verification in conjunction with federal student assistance, that Applicant shall also be verified for ISAC-administered programs. A selected Applicant must be verified for ISAC programs even if the Applicant is ineligible for federal student assistance.
- e) Because ED Verification procedures do not include procedures for verifying a student as a Resident of Illinois, the following provisions shall be followed by the Institutions.
 - 1) Residency verification shall not be required for students who received payment of MAP Award during the previous Academic Year.
 - 2) If Residency status shall be verified for each Applicant who is selected for Verification and meets one of the following criteria:
 - A) the Applicant has changed dependency status and has become an Independent student; or
 - B) the Applicant has not been Enrolled in an ISAC-approved MAP Institution or an ISAC-approved Illinois High School (see: Section 2700.30) during the preceding twelve months; or
 - C) the Institution has any information which indicates the Applicant may not be a Resident of Illinois.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

3)2† One or more of the documents listed below may provide proof that an Applicant (or Parent) is an Illinois Resident, as defined in Section 2700.20. For an Independent Student Applicant, the dates recorded on the documents must indicate the Applicant has resided in Illinois for the relevant twelve continuous, full months.

- A) A valid state or federal income tax return
- B) Illinois High School or college transcript
- C) Illinois Driver's License
- D) Utility or rent bills in the Applicant's (or Parent's) name
- E) Illinois Auto Registration card
- F) Residential lease in the Applicant's (or Parent's) name
- G) Wage and Tax Statements (IRS Form W-2)
- H) Statement of benefits history from the Illinois Department of Public Aid
- I) State of Illinois Identification Card issued by the Secretary of State
- J) Statement of benefits from the Illinois Department of Employment Security.

4)3† If an Applicant is a Resident of Illinois, but the Institution cannot document this fact in accordance with subsection (g)(2) ††††† above, the Applicant or the Institution may verify residency through ISAC's appeal process. (See: Section 2700.70.)

h)9† Institutions may request First Term payment even though Verification is not yet complete. If, after Verification, an ISAC payment adjustment is appropriate, Institutions must submit the appropriate refund. If Verification is not completed within 60 days after the conclusion of the Regular School Year, the Institution shall return the first Term payment to ISAC. For other than the first Term of eligibility in an Academic Year, the Verification process must be completed before the Institution may request payment.

i)† When an Institution adjusts an Applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1087kk et seq.), the Institution shall retain documentation which demonstrates the appropriateness of such adjustment.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2700.55 Electronic Data Exchanges

a) ISAC will provide eligible Institutions and Lenders with electronic data regarding Applicants. In return, Institutions and Lenders will provide ISAC with electronic data on Applicants as required by these Rules.

b) Information on the availability of electronic data exchanges shall be provided in ISAC publications. To participate in electronic data exchanges, the Institution or Lender shall:

- 1) meet the eligibility guidelines established by ISAC;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

2) execute a written agreement with ISAC, outlining the conditions of participation; and

3) select a machine readable medium for teletransmission.

c) In the event the medium is lost, damaged, mutilated or erased, the party responsible shall bear the cost of replacing or restoring the medium.

d) ISAC shall provide program documentation and reasonable technical assistance related to data exchanges. The data and program documentation shall be confidential and shall not be used, sold, or shared for any purpose other than those directly related to the internal operations of the Institution, Lender, or ISAC.

e) Institutions and Lenders participating in direct teletransmission data exchanges shall be provided with security procedures including access codes and passwords. Institutions and Lenders shall be responsible for implementing appropriate safeguard procedures to protect the integrity of the data transmitted or received.

f) Institutions and Lenders shall comply with all applicable federal and state laws which regulate the privacy of, and access to, Applicant data. (See: e.g., the Family Educational Rights and Privacy Act (20 U.S.C.A. 1232g); The Freedom of Information Act †††††; State: 1997-Ch-1167-Pas-232-et-seq.† [5 ILCS 140]; Section 487 of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1094); and 34 CFR 682.610.)

g† Institutions shall submit an application to ISAC which shall include, but not be limited to, information regarding default rates, previous program reviews, and audit compliance with rules and regulations, the number of years in financial aid programs and items demonstrating administrative capability and financial responsibility. Participation shall be determined by ISAC on an annual basis. ††††† established and published by ISAC on an annual basis. ††††† (See: 23-111-Adm-Code-2720-20-Ord-2720-20-†

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2700.70 Appeal Procedures

a) Complainants (including Applicants, Institutions and Lenders) may appeal an ISAC administrative decision in accordance with this Section. Complainants must submit their appeal within 60 days of the date of an administrative decision by ISAC. If a complainant fails to pursue an appeal within 60 days of an administrative decision, including administrative decisions rendered under subsections (d) and (e) below, the complainant forfeits all appeal rights.

b) All appeals shall be submitted in writing, must specifically invoke the use of ISAC's appeal process and must indicate the specific

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

issue(s) to be reviewed. Each complainant shall be sent a written response within fifteen working days of receipt of their appeal.

1) A complainant may submit any evidence which the complainant believes relevant to the issue appealed. If ISAC is not able to make a determination based on the information provided, the complainant may be requested to supply additional written materials related to the issue (e.g., income tax returns, ISAC correspondence).

2) The standard of review is whether, based on the manifest weight of the evidence, the administrative decision(s) being appealed is consistent with statutes, Rules and Regulations relevant to the issue appealed.

c) At the complainant's discretion, a complainant may be represented by legal counsel. Except for appeals pursuant to Section 2700.50 (g)(4) (Illinois residence) and 23 Ill. Adm. Code 2760.40(a) (State Scholar designations), Applicant appeals shall not be written or submitted by a lender or an institution. A lender or an institution may advise an Applicant on appeal issues and opportunities.

d) The complainant shall submit an appeal directly to the appropriate ISAC Manager. An appeal may be pursued through the appropriate sequence of ISAC's administrative levels culminating with an appeal to the Executive Director. (See: 2 Ill. Adm. Code 5375, Appendix A, Organization Chart.)

e) Adjudicatory hearings are available for complainants who have first used the procedures of subsection (d) of this Section. A hearing shall be requested, in writing, within 60 days after the date of the Executive Director's appeal decision.

1) Within 30 days after of the receipt of a hearing request, the Executive Director shall schedule a hearing. The hearing shall be conducted in accordance with 23 Ill. Adm. Code 2790.140, Hearings.

2) The independent hearing officer shall issue a recommended decision based upon what transpired at the hearing, in accordance with and subject to 23 Ill. Adm. Code 2790.70, Recommended and Final Decisions.

3) If necessary, the hearing officer's decision can be appealed to the Commission.

f) Commission dispositions, as provided for by 23 Ill. Adm. Code 2790.70(e), are considered final administrative decisions as defined by the Administrative Review Law (431r-Rev-Stat-1991-chr-1-87--par 3-101--et-seq) [735 ILCS 5/Art. III]. The complainant shall be sent written notice notification of the final administrative decision within ten working days after of the Commission's disposition of the appeal.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Illinois National Guard Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2730
- 3) Section Number: 2730.10
2730.20
Proposed Section:
Amended
Amended
- 4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947.45 and 20(f)].

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2730.10(c) has been restructured to more closely parallel the similar delineation of eligible and noneligible fees in the Illinois Veteran Grant Program, Part 2733. The deadline dates for return of payment certification forms contained in Section 2730.20(b)(1) have been changed from business day limits to calendar day limits, since clients had suggested that they do not always know which days are official business days, and it would be easier to calculate due dates based on calendar days.

6) Will this proposed amendment replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does this proposed amendment contain incorporations by reference? No.

9) Are there any other amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730

ILLINOIS NATIONAL GUARD GRANT PROGRAM

Section

2730.5 Summary and Purpose
2730.10 Applicant Eligibility
2730.20 Program Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947/45 and 20(f)).

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 2730.10 Applicant Eligibility

- a) Students must file an application annually indicating the Institution to be attended. Application deadlines are specified in Section 2730.20(d).
 - 1) Eligible Applicants will receive an Eligibility Letter from ISAC for each Academic Year following the filing of the application. This letter must be delivered to the educational Institution at which the student is Enrolled. Ineligible Applicants will receive written notification from ISAC of their ineligibility to receive program benefits.
 - 2) ISAC verifies application data in consultation with the Illinois Department of Military Affairs when reviewing an application.
- b) Applicants must have served for at least one year in the Illinois National Guard. Eligibility is available to any enlisted person or any company grade officer including warrant officers, first and second lieutenants, and captains in the Army and Air National Guard.
- c) Fees exempted by the National Guard Grant. Fees-exempted-from-payment by--this-program-are--tuition--registration--graduation--and

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

~~general-activity--fees--Pees--for--which--the--recipient--remains~~
~~financially-responsible-incidental--book-text--laboratory--ate-eighty~~
~~health--insurance--room--and-board--parking--university-supply--hospitality~~
~~athletic--and--proficiency-exams-~~

1) The recipient is exempted from paying the following:

- A) Tuition;
- B) registration fees;
- C) graduation fees; and
- D) general activity fees.

2) The recipient is responsible for payment of the following:

- A) book rental fees;
- B) laboratory and supply fees;
- C) air flight fees;
- D) hospital and health insurance fees;
- E) room and board;
- F) parking fees;
- G) student union fees;
- H) athletic fees; and
- I) proficiency or placement exam(s) and other similar fees.

d) Recipients must maintain an acceptable grade point average as determined by the Institution pursuant to a published policy.

e) Benefits are applicable to both undergraduate and graduate enrollment.

f) There is no minimum credit-hour enrollment requirement.

g) Benefits may be used at Illinois public senior universities and at any Illinois public community college.

h) If a student is eligible for both National Guard and MAP, the National Guard benefits must be used first. A student cannot decline a National Guard Grant in favor of using MAP.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2730.20 Program Procedures

a) Payment Request

1) The Institution must request from each Applicant a valid Illinois National Guard Grant Eligibility Letter. The Institution must complete two ISAC payment certification forms which certify the Applicant's:

- A) Social Security Number;
- B) name;
- C) enrollment;
- D) grant amount; and
- E) Satisfactory Academic Progress.

2) One sheet is to be returned to ISAC for payment and the other retained by the Institution for record and audit purposes.

b) Within the constraints of appropriation levels, two semester or three quarter Term payments and one summer Term payment are made directly to

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

the Institution after it officially certifies to ISAC that the Applicant has registered and is attending classes. No seminars or other special Terms are covered under the grant. Summer Term is considered the final Term of the Academic and fiscal Year.

- 1) Payment certification forms will be mailed each Term to the Institution no earlier than the application deadline date for that Term. Payment certification forms must be returned no later than 30 calendar twenty-one (21) days after they have been mailed to the Institution by ISAC. Supplemental certification forms must be submitted to ISAC no later than 15 calendar thirty-(30) days after the original payment certification form was mailed to the Institution with the exception of summer Term supplements which must be submitted by the same deadline as the original payment certification for summer Term. All certification forms received by ISAC after the designated dates will be paid or prorated during the fiscal lapse period (July 1 through September 30 following the conclusion of the fiscal year).
- 2) Claims will be paid as follows:
 - A) First semester and first quarter claims received by the designated deadline date will be paid or prorated, if funding is insufficient to pay all claims in full.
 - B) If funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full.
 - C) If funds still remain after the preceding claims are paid, summer Term claims received by the designated deadline date will be paid, or prorated, if remaining funds are insufficient to pay all summer claims in full.
 - D) In the event that funds are not exhausted by summer Term payments, claims received after the designated deadline date will be paid or prorated.
 - E) If funds are still available when the preceding claims have been paid in full, ISAC will use remaining funds to pay or prorate claims for the balance of non-residents' tuition for recipients who live out-of-state or out-of-district.
- c) Changes of address, name, status with the Guard, or institution of attendance must be reported in writing to ISAC. Verification of receipt of changes sent to ISAC will be mailed directly to the Applicant's address recorded with ISAC.
- d) Applicants must file an application each Academic Year indicating the Institution to be attended. No payment will be authorized for any Applicant until a current application is on file. The deadline for application will be September 15 for first Term, March 1 for second semester/second and third quarter, and June 15 for the summer Term. Institution of attendance changes must also be reported by these dates.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- e) Eligible recipients are entitled to receive benefits for the equivalent of eight semesters/twelve quarters of full-time enrollment. To determine the amount of eligibility a recipient has used, credit hours will be converted to "eligibility units" according to the following chart:

Number of Hours	Semester School	Quarter School
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
0 - 2.99 hours	1 unit	1 unit

- 2) Recipients may continue to reapply and accumulate up to 96 units, after which point eligibility for program benefits will cease.
- 3) In the event that the recipient withdraws from a course(s) prior to the end of a term, eligibility units will be assessed in proportion with the total dollars that are paid. If the recipient has had any portion of his/her tuition and fees paid, at least one eligibility unit will be charged to the recipient.

Example: A recipient is Enrolled for twelve semester hours at a cost of \$300.00. The recipient withdraws from enrollment and incurs expenses of \$150.00 in accordance with the Institution's tuition refund policy. The recipient would use six eligibility units and would receive \$150.00 in benefits.

- 4) The eligibility units used for a non-credit course shall be the same as the number of eligibility units used for a credit course having the same number of total faculty contact hours.

- f) If a current year Applicant is discharged or has membership extended by the Guard, ISAC will send a revised eligibility letter or ineligibility letter to the applicant. In the case of discharges, a copy of the letter will be sent to the Institution of record.

- g) If a recipient ceases to be a member of the Guard in mid-term, benefits are terminated and the recipient is responsible for the costs attributed to the remainder of the Term. If an Applicant becomes eligible in mid-term, in accordance with Section 2730.10(b), benefits will be pro-rated for that portion of the Term for which the Applicant is eligible, provided the application is submitted by the deadlines established in subsection (d). Costs are prorated on the basis of the Institution's scheduled days of instruction minus institutionally scheduled holidays and examination periods.

Calculation: Total tuition costs divided by total instructional days = cost per day x days of eligibility = total proration.

- h) Out-of-state residents will receive Tuition and applicable fee benefits equivalent to those received by in-state residents at the Illinois Institution; recipients attending out-of-district community colleges will receive tuition and applicable fee benefits equivalent

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-state and out-of-state tuition nor will they be responsible for paying the difference between in-district and out-of-district tuition.

- i) Payments on behalf of a recipient will be made to only one Institution per term. For any Institution that has a Concurrent Registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.70(d).)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Illinois Special Education Teacher Tuition Waiver Program

2) Code Citation: 23 Ill. Adm. Code 2765

3) Section Numbers: Proposed Action:

2765.10	Amended
2765.20	Amended
2765.30	Amended
2765.50	Amended

4) Statutory Authority: Implementing Section 65.15 of the Higher Education Student Assistance Act [110 ILCS 947/65.15] and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act.

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: In Section 2765.10, the pursuit of teaching careers at private and parochial schools is added to more clearly identify the purpose of the program. Reference to these schools was previously inadvertently omitted. The definition of "eligible institution" is modified in Section 2765.20 to reflect the dissolution of the Board of Governors and the Board of Regents by Public Act 89-0004. All institutions previously governed by these boards are now individually named, as are all other eligible institutions. Section 2765.30(b)(3)(A) has been amended to require that a qualified applicant be a graduate of an Illinois high school. Section 2765.30(d)(3) has been added to provide a requirement that recipients agree to provide ISAC with evidence of compliance with program requirements through such activities as filling out annual questionnaires. Section 2765.50(g) has been amended and Section 2765.50(h) has been added to clarify that the maximum period allowed for completion of a course of study includes leaves of absence, and that the institution must notify ISAC of such periods for teaching commitment/repayment requirements.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2765

ILLINOIS SPECIAL EDUCATION TEACHER TUITION WAIVER PROGRAM

Section	
2765.10	Summary and Purpose
2765.20	Definitions
2765.30	Scholar Eligibility
2765.40	Program Procedures
2765.50	Institutional Procedures

AUTHORITY: Implementing Section 65.15 of the Higher Education Student Assistance Act [110 ILCS 947/65.15] and authorized by Sections 20(f) and 65-15(a)(2) of the Higher Education Student Assistance Act.

SOURCE: Adopted at 19 Ill. Reg. 8354, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2765.10 Summary and Purpose

- a) The Illinois Special Education Teacher Tuition Waiver Program encourages current teachers and academically talented students to pursue careers as Illinois public, private or parochial elementary and secondary Illinois school teachers in any area of Special Education.
- b) This part establishes the Rules which govern the Illinois Special Education Teacher Tuition Waiver Program. Additional Rules and definitions are contained in the General Provisions Part at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2765.20 Definitions

"Eligible Institution" - For the purposes of this Part, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University (Carbondale), Southern Illinois University (Edwardsville), University of Illinois (Chicago), University of Illinois (Springfield), University of Illinois (Urbana) and Western Illinois University, the University of Illinois--Southern Illinois--University--and--state--colleges--and universities--under the jurisdiction of the Board of Governors and the Board of Regents.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

"Fees" - For the purposes of this Part, the Fees that a Special Education Scholar is exempt from paying include: any matriculation, graduation, activity, term or incidental fee. The fees for which the Scholar remains responsible include: multipurpose fees or any other fees such as book rental, service, laboratory, supply, union building, hospital and medical insurance fees and any fees established for the operation and maintenance of buildings, the income of which is pledged to the payment of interest and principal on bonds issued by the governing board of any public university or community college.

"Qualified Applicant" - An Applicant who meets the requirements of Section 2765.30(b).

"Scholar" - For the purposes of this Part, a Special Education Scholar.

"Special Education" - A postsecondary educational program designed to teach persons how to meet the needs of all children designated as handicapped, with specific learning disabilities or requiring extraordinary special education services and facilities. (See 105 ILCS 5/14-1.02, 1.02a and 7.02.) These programs prepare persons for meeting the needs of children who exhibit handicapping or exceptional characteristics ranging from very mild to very severe. (See 23 Ill. Adm. Code 226, Special Education.) Such a program prepares a student to teach handicapped children or children with learning disabilities. (See 105 ILCS 5/14-1.02 and 1.03a.)

"Special Education Scholar" - An individual who receives assistance under this Part.

"Tuition Waiver" - An exemption from paying the Tuition and Fees at an Eligible Institution.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2765.30 Scholar Eligibility

- a) A completed application must be received in ISAC's Deerfield office on or before February 15 immediately preceding the Academic Year for which the scholarship is being requested, in order to receive priority consideration.
- b) In addition to filing a timely application, a Qualified Applicant must:
- 1) be a United States Citizen or an Eligible Noncitizen;
 - 2) be a Resident of Illinois;
 - 3) be an individual who has agreed to take courses that will prepare him/her for the teaching in a Special Education discipline of

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

handicapped children or children with learning disabilities; and
 A) a high school graduate of an Illinois high school (or a student scheduled to graduate from an Illinois high school by the end of the school term in which the award is made) who ranks in the upper half of his or her high school graduating class; or

B) a person holding a valid teaching certificate that is not in the discipline of Special Education;
 4) be Enrolled, or accepted for enrollment, on a full-time basis as an undergraduate or graduate student seeking initial certification in any area of Special Education;
 5) attend, or plan to attend, an Eligible Institution; and
 6) not have received the Illinois Special Education Teacher Tuition Waiver in the past.

c) Applicants will be notified if they are not Qualified Applicants. A non-Qualified Applicant may appeal a finding of ineligibility in accordance with 23 Ill. Adm. Code 2700.70, Appeal Procedures.

d) Prior to receiving assistance, the Special Education Scholar must sign a Teaching Agreement/Promissory Note, which must be submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following:

1) a pledge on the part of the Scholar to teach in the field of Special Education for two of the five years immediately following graduation or termination of enrollment in any recognized public, private or parochial school in Illinois; and

2) a further stipulation that, if the teaching requirement is not fulfilled, the scholarship converts to a loan and the Special Education Scholar must repay the entire amount of the Tuition Waiver prorated to the fraction of the teaching obligation not completed, plus interest at a rate equal to 5% per annum; and

3) a further stipulation that the Scholar agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).

e) A Special Education Scholar shall not be in violation of the teaching agreement, and thus may defer repayment as set forth in subsection (d)(2) of this Section, if the Special Education Scholar:

1) serves, for not more than four years, as a member of the United States armed services;

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;

3) is pursuing a postgraduate degree and is enrolled on a full-time basis;

4) is seeking and unable to find, for not more than two years, full-time employment as a Special Education teacher, and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to a teacher certification in Special Education but remains Enrolled on a full-time basis in another academic discipline.

f) A Special Education Scholar shall not be required to pay the amount of

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

the Tuition and Fees waived if s/he becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see e.g., 34 CFR 653.42(k)(1)); or if his or her representative provides ISAC with a death certificate or other evidence that the Scholar has died.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2765.50 Institutional Procedures

a) Tuition Waivers are available towards credit for any semester quarter within an Academic Year.

b) When a Special Education Scholar graduates, withdraws, or otherwise ceases to be Enrolled in a Special Education program, the Institution shall certify to ISAC the total amount of Tuition and Fees that have been waived on behalf of the Special Education Scholar.

c) A Special Education Scholar shall be exempt from paying Tuition and Fees at an Eligible Institution for up to four calendar years.

d) In any Academic Year in which the Special Education Scholar accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship (23 Ill. Adm. Code 2763), or the DeBolt Teacher Shortage Scholarship (23 Ill. Adm. Code 2764), the Scholar shall forfeit his or her eligibility for assistance under this Part.

e) If a Scholar is eligible for both a Tuition Waiver and grant assistance under the Monetary Award Program (23 Ill. Adm. Code 2735), the Tuition Waiver must be used first.

f) Special Education Scholars must be Enrolled at an Eligible Institution on a full-time basis. However, leaves of absence may be granted by the president of the Eligible Institution, or her or his designee, for the following reasons:

1) earning funds to defray the Scholar's educational expenses;
 2) illness of the Scholar or a member of the Scholar's immediate family, as established by the sworn statement of a licensed physician; or

3) military service.

g) A Special Education Scholar must complete his or her course of study within six years including periods of leaves of absence. However, a leave of absence granted for military service shall not be considered part of the six years within which a Scholar must complete a degree.

h) ISAC shall be notified by the Institution of a Scholar's periods of leaves of absence.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Illinois Veteran Grant (IVG) Program

2) Code Citation: 23 Ill. Adm. Code 2733

3) Section Numbers: 2733.30
Proposed Action:
Amended

4) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2733.30(a)(3) has been modified to clarify that an applicant must provide documentation for all periods of service in order for ISAC to verify the Illinois residency of the veteran. In Section 2733.30(a)(3)(C), the form number of the enlistment contract has been updated and a phrase has been added to parallel the clarification provided in subsection (a)(3). The wording in Section 2730.30(b) has been revised to simplify the process by which an institution can verify a veteran's initial eligibility. Section 2733(c) has been amended to include a final deadline date of August 25 for payment requests, which gives ISAC sufficient time to process claims by the end of the State fiscal year lapse period. If an institution were to miss that date, it could attempt to seek payment through the Court of Claims.

6) Will this proposed amendment replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1753 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733

ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section

2733.10 Summary and Purpose
2733.20 Grant Eligibility
2733.30 Program Procedures

AUTHORITY: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].

SOURCE: Emergency rule adopted at 10 Ill. Reg. 14322, effective August 20, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3207, effective January 29, 1987; amended at 12 Ill. Reg. 11536, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1733 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2733 (Illinois Student Assistance Commission) pursuant to P.A. 86-158, effective July 1, 1989, at 13 Ill. Reg. 17858; amended at 14 Ill. Reg. 10571, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 15613, effective October 11, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 18748, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 6880, effective April 14, 1992; amended at 16 Ill. Reg. 11261, effective July 1, 1992; amended at 17 Ill. Reg. 10570, effective July 1, 1993; amended at 18 Ill. Reg. 10309, effective July 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 2733.30 Program Procedures

- a) An Applicant must apply to ISAC for designation as a Qualified Veteran. ISAC shall issue a notice of eligibility to an Applicant who is a Qualified Veteran as defined by this subsection.

1) Definition of "Qualified Veteran"

- A) Any person who served in the Armed Forces of the United States who:
- at the time of entering service was an Illinois resident or was an Illinois resident within 6 months prior to entering such service; and
 - who after leaving service returned to Illinois within 6 months; or
 - if married to a person in continued military service stationed outside Illinois, returned to Illinois within 6 months after his or her spouse's discharge; or
 - if married to a person in continued military service,

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

applies for this grant program within 6 months of his or her spouse being stationed within Illinois.

- B) Any veteran who, at the time of entering the Armed Forces, was a student at a State-controlled college or university or community college and who, after leaving service, returned to Illinois within 6 months.

- C) Any member of the Armed Forces of the United States who has served at least one year of active duty and who would be a Qualified Veteran under this subsection if honorably discharged from such service.

- D) An individual is not a Qualified Veteran if the individual was discharged from the Armed Forces of the United States under less than honorable conditions. An individual is not a Qualified Veteran if the individual's active duty with the Armed Forces was for less than one year unless:

- the Veteran was honorably discharged from such service for medical reasons directly connected with such service; or
- the Veteran was honorably discharged prior to August 11, 1967; or
- the Veteran was honorably discharged from such service, part of which included duty in the Persian Gulf war or in military operations to aid Somalia.

- 2) The term "Armed Forces" shall be defined as the United States Army, Air Force, Navy, Marines and Coast Guard. Members of the Student Army Training Corps and a state's National Guard are not eligible for assistance under this Part.

- 3) The Applicant shall submit documentation of all periods of service to ISAC which demonstrates eligibility for designation as a Qualified Veteran.

- A) An Applicant should submit a copy of his or her Report of Separation (Form DD 214) with the application, which can be obtained from the National Personnel Records Center or the Illinois Department of Veterans' Affairs.

- B) If the Applicant does not have a copy of the DD 214, the Applicant should submit documentation which provides, the following information: date of entry; date of separation; type of discharge; total active service; home or place of entry into the service; and home or place of separation from the service. Such documentation must have been issued by the United States Department of Defense (DD) or the Veterans Administration.

- C) If the Applicant is a member of the Armed Forces at the time of application, the Applicant shall submit a copy of the original and/or current Enlistment Contract (Form DD-194) and a letter from the commanding officer. If the veteran is in an initial enlistment, a copy of the original contract must be provided. If the veteran is on an enlistment

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

extension, a copy of the current contract must be provided with the application as well as copies of all extension contracts. The letter from the commanding officer must indicate that the Applicant is a member of the Armed Forces at the time of application, must include the veteran's home of record at the time of original enlistment, must state the veteran's length of time in service and the expiration date of the current enlistment.

4) If the Applicant's DD 214 does not indicate Illinois residency when entering and/or separating from the Armed Forces, the Applicant may verify Illinois residency by providing one or more of the documents listed below. The definition of "Resident of Illinois" contained in 23 Ill. Adm. Code 2700.20 is not applicable to the Illinois Veteran Grant Program because residency, for the purposes of this program, can be established in six months.

- A) Illinois drivers license issued during the relevant six months period;
- B) Illinois high school or college transcripts demonstrating attendance during the relevant six month period;
- C) Utility bills/rent receipts in the Applicant's name for the relevant six month period;
- D) Illinois motor vehicle registration issued during the relevant six month period;
- E) Residential lease in the Applicant's name for the relevant six month period;
- F) Statement of benefits from the Illinois Department of Public Aid for the relevant six month period;
- G) Statement of benefits from the Illinois Department of Employment Security for the relevant six month period;
- H) State of Illinois identification card issued during the relevant six month period; or
- I) Letter of employment verified by certification in accordance with Illinois law (see 735 ILCS 5/1-109) and printed on company letterhead.

5) If an Applicant is designated a Qualified Veteran pursuant to subsection (a)(1)(C), such designation shall expire upon discharge from the Armed Forces.

b) ~~A-Qualified-veteran-shall-be-issued-a-notice-of-eligibility. To receive an Illinois Veteran Grant, a Qualified Veteran an-Applicant must notify submit-a-copy-of-the-notice-of-eligibility-to the Institution of his or her eligibility within three months following the last scheduled day of classes for the Term for which a grant is requested. A notice of eligibility from ISAC or Qualified-veteran-who received an Illinois Veterans Scholarship (IVS) ID card from the Illinois Department of Veterans' Affairs may be used by the Institution to establish a Qualified Veteran's initial eligibility. receive-an-illinois-veteran-grant-by-submitting-a-copy-of-that-IVS-ID~~

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

~~card-to-the-institution-~~
c) Institutions shall submit a payment request to ISAC. The deadlines for submission of complete payment requests shall be September 15 for summer Terms; January 15 for first Term; and May 25 for second semester/second and third quarter. All claims, including supplemental claims, must be submitted no later than August 25 following the Academic Year in order to be considered for payment. When submitting payment requests, the Institution shall certify that the Qualified Veteran meets the requirements of Section 2733.20, Grant Eligibility. The reimbursement to Institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, Institutions will be reimbursed in accordance with this subsection.

- 1) Summer Term claims received by the deadline date designated in subsection (c) will be paid, or prorated if funding is insufficient to pay all claims in full.
- 2) If funds remain after summer Term claims are paid, first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full.
- 3) If funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full.
- 4) If funds remain after second semester/second and third quarter claims are paid, claims received by ISAC after the designated deadline dates will be paid or prorated.
- 5) In the event funds are not exhausted, claims for the difference between in-district and out-of-district tuition will be paid for recipients who do not qualify for charge-backs, or prorated if funds remaining are insufficient to pay all such claims in full.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Limitation, Suspension and Termination

2) Code Citation: 23 Ill. Adm. Code 2790

3) Section Numbers: Proposed Action:

2790.10 Amended
2790.20 Amended
2790.70 Amended
2790.140 Amended

4) Statutory Authority: Implementing and authorized by the Higher Education Student Assistance Act (110 ILCS 947) and the Higher Education Act of 1965, as amended (20 U.S.C.A 1070 et seq.).

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: In addition to updating the federal statutory and regulatory cross-reference contained in Section 2790.10, subsection (e)(5) is added to include administrative actions taken by nationally recognized accrediting agencies. Accreditation is a prerequisite to participation in any ISAC-administered program and we are bound by the decisions of these agencies. Section 2790.70 is clarified by removing all references to the independent hearing officer's "recommended" decision. The hearing officer's decision can be binding upon the parties, if not appealed to the Commission.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)) and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

668-97-(1998), or an individual (34 CFR 85.300 - 85.420 (1998));

- 4) any administrative action taken by the Illinois Department of Professional Regulation, the Illinois State Board of Education, or the Illinois Board of Higher Education terminating, suspending or limiting an educational institution's authority to offer educational programs within the State of Illinois; or

- 5) any administrative action taken by a nationally-recognized accreditation association (see Section 196 of the Higher Education Act of 1965, as amended) terminating, suspending or limiting an educational institution's accreditation status.

In any such case, ISAC shall terminate the participation of the institution by sending notice of such termination, certified mail return receipt requested (see Section 2790.180).

- f) This Part incorporates by reference the corresponding applicable federal regulations, namely Limitation, Suspension or Termination of Lender: Eligibility Under the Guaranteed Student Loan Program and the PLUS Program (34 CFR 682.700 - 682.713 682-711--(1998)), Fine, Limitation, Suspension and Termination Proceedings as applied to educational institutions (34 CFR 668.81 - 668.98 668-97--(1998)), and Debarment and Suspension Proceedings as applied to persons (34 CFR 85.300 - 85.420 (1998)).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2790.20 Definitions

"Action" - An administrative proceeding conducted under this Part.

"Administrative Error" - Conduct resulting in the loss of a loan guarantee, creating a financial liability, or resulting in a refund due ISAC or the U.S. Department of Education, including but not limited to: overbilling interest, failing to cancel loans on a timely basis, failing to make timely refunds, overbilling of interest subsidy and special allowance, due diligence violations in making, disbursing, and servicing loans or conduct resulting in obtaining scholarship, and/or grant funds for which the Institution or Applicant is not entitled.

"Admonishment" - A written reprimand which warns the Institution or Applicant that a repeat of the same offense will be subject to a penalty of greater severity. Admonishments shall be a matter of public record and may be imposed in lieu of a more severe sanction.

"Applicant" - Any individual who requests ISAC consideration for a scholarship, grant, tuition waiver, or guaranteed loan.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

"Borrower" - A student or parent to whom a subsidized or unsubsidized Stafford, PLUS, SLS or IOP loan is or has been made.

"Funds" - Any money, commitments to provide money, and commitments of insurance or reinsurance provided under any or all programs.

"Hearing Officer" - An impartial person, appointed by the Executive Director of ISAC, or the Executive Director's designee, with no prior involvement with the facts giving rise to the Limitation, Suspension or Termination Action, who is either:

an attorney who has been admitted to practice law in Illinois for at least five (5) years preceding appointment by the Executive Director and possesses those additional qualifications as are necessary to obtain appointment as an arbitrator pursuant to Section 2-1003A of the Mandatory Arbitration System in Illinois [735 ILCS 5/2-1003A] (111--Rev--Stat--1989--ch--118--Part 2-1993); or

a person who is an arbitrator qualified by the American Arbitration Association; or

any other person who meets the qualifications for the position of Administrative Law Judge for the Federal Government.

"Institution" - For purposes of this Part, any educational or lending institution which participates in any ISAC program(s).

"ISAC Official" - Any official of ISAC to whom the Executive Director has delegated the responsibility of initiating and pursuing an action under this Part.

"Lender" - Defined by Section 435(d) 435 of the Higher Education Act of 1965, as amended (20 USCA 1085(d) (1998)).

"Limitation" - The continuation of an Applicant's or an Institution's eligibility for any or all programs subject to compliance with special conditions or restrictions which have been established by ISAC as necessary for the Institution's initial or continued participation in ISAC programs.

"School" - An Institution eligible to participate in the programs established by the Higher Education Act of 1965, as amended, including an Institution of higher education (as defined in 34 CFR 600.4 (1998)), a proprietary Institution of higher education (as defined in 34 CFR 600.5 (1998)), and a postsecondary vocational Institution (as defined in 34 CFR 600.6 (1998)); and a vocational school (as defined in 34 CFR 600.7 (1998)).

"Suspension" - The removal of an Applicant's or an Institution's eligibility for any or all ISAC programs for a specified period of

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

time or until the problem that initiated the Limitation, Suspension or Termination proceedings is resolved.

"Termination" - The unqualified removal of an Applicant's or an Institution's eligibility for any or all programs for an indefinite period of time, but in no event less than 18 months.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2790.70 Recommended and Final Decisions

a) The Hearing Officer issues a final decision based on findings of fact and conclusions of law. Findings of fact shall be based only on evidence considered at the hearing and matters of which official notice has been taken. A recommended decision must be issued no later than 30 days after the conclusion of the hearing.

b) The Hearing Officer's recommended decision will be promptly mailed to all parties.

c) The Hearing Officer's recommended decision may be appealed to the Commission by filing exceptions to the recommended decision and a brief in support of those exceptions no later than 20 days after the receipt of the recommended decision. The opposing party shall have 20 days from the receipt of the exceptions and supporting brief to file a response. If no timely exceptions are filed, the party will be deemed to have waived any exceptions and the Hearing Officer's recommended decision shall be implemented.

1) All exceptions, briefs, and reply response briefs shall be filed with the Executive Director.

2) Each exception shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken and shall identify that part of the Hearing Officer's recommended decision to which objection is made. The supporting brief shall designate, by precise citation of pages, the portions of the record relied upon and shall state the grounds for the exceptions and a citation of authorities.

3) The Executive Director shall submit to the Commission the Hearing Officer's recommended decision, exceptions and briefs.

d) The recommended decision of the Hearing Officer does not take effect while an appeal is pending the appeal, unless the Commission determines that a stay would produce a serious and adverse effect upon the programs involved.

e) In the case of an appeal, the Commission issues a final administrative decision affirming, modifying, or reversing the Hearing Officer's recommended decision, including a statement of or reasons for the decision.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2790.140 Hearings

a) If the Applicant or the Institution requests a hearing at least 5 days before the proposed effective date of a Suspension, Limitation or Termination, the Executive Director sets the date and place for the hearing. The date will be at least 15 days after the Executive Director receives the request.

b) A Hearing Officer appointed by the Executive Director conducts the hearing on the record.

c) The Hearing Officer shall regulate the course of the proceedings, the conduct of the parties during the hearing, provide for the orderly presentation of arguments and evidence, and shall take all steps necessary to conduct a fair and impartial hearing.

d) The Hearing Officer shall take whatever measures are appropriate to expedite the proceeding which may include, but are not limited to:

- 1) scheduling of pre-hearing conferences;
- 2) restricting the number or length of submissions;
- 3) accepting stipulations as to facts and legal authorities;
- 4) setting time limits for hearings and submission of written documents; and
- 5) declaring any party who fails to comply with a valid order of the Hearing Officer to be in default, terminating the proceeding and issuing a decision against the non-complying party.

e) At the hearing, the appointed Hearing Officer shall consider any written material presented before the hearing, or any material or other evidence presented during the course of the hearing. The hearing shall be conducted in accordance with Article 10 Sections 101 and 102 of the Administrative Procedure Act 5 ILCS 100/Art. 101 and 102.

f) The Hearing Officer shall not have authority to issue subpoenas. If requested by the Hearing Officer, ISAC, the Applicant and/or the Institution shall provide persons who have knowledge about the matter under review for oral or written examination.

g) The ISAC Official has the burden of proof by a preponderance of the evidence in any Suspension, Limitation or Termination hearing.

h) The Hearing Officer shall only accept evidence that is relevant to the proceeding and not unduly repetitious.

i) The Hearing Officer shall base findings of fact only on evidence considered at the hearing and on matters given judicial notice.

j) If, after considering the evidence, the appointed Hearing Officer concludes that a Suspension, Limitation, Termination or penalty is warranted, the Hearing Officer will issue a final decision that may suspend, limit, terminate or affect the Applicant or the Institution's eligibility in whole or in part.

k) If a Termination proceeding is brought against an Applicant or an Institution, the appointed Hearing Officer may, at his or her

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

discretion, issue a decision to impose one or more limitations or penalties on an applicant or an institution rather than terminating its eligibility.

- 1) Expedited Hearing: With the approval of the Hearing Officer and the mutual consent of the parties, any time schedule specified in this Section may be shortened.

- m) The applicant or the institution may be represented by legal counsel at a hearing, but ISAC is under no obligation to provide such counsel.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Merit Recognition Scholarship (MRS) Program
- 2) Code Citation: 23 Ill. Adm. Code 2761
- 3) Section Numbers: Proposed Action:
2761.20 Amended
2761.30 Amended
- 4) Statutory Authority: Implementing Section 30 and authorized by Section 30(h) of the Higher Education Student Assistance Act [110 ILCS 947/30 and 30(h)].

- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: The program procedures set forth in Section 2761.30(c)(4) are modified to require an institution to notify ISAC and return the full amount of the funds received if a recipient withdraws from enrollment, or drops to less than half-time status, prior to disbursement of the scholarship. If a recipient withdraws from enrollment during the first term of the scholarship, after receiving MRS funds, Section 2760.30(e) specifies that the recipient must return the full amount of the scholarship directly to ISAC, as provided for in the statute [110 ILCS 947/30(g)].

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2761

MERIT RECOGNITION SCHOLARSHIP (MRS) PROGRAM

Section	Summary and purpose
2761.10	Definitions
2761.20	Program Procedures
2761.30	Program Procedures (Repealed)
2761.40	Program Procedures (Repealed)

AUTHORITY: Implementing Section 30 and authorized by Section 30(h) of the Higher Education Student Assistance Act [110 ILCS 947/30 and 30(h)].

SOURCE: Adopted at 9 Ill. Reg. 10277, effective July 5, 1985; amended at 9 Ill. Reg. 20849, effective January 1, 1986; amended at 11 Ill. Reg. 3220, effective January 29, 1987; amended at 11 Ill. Reg. 14127, effective August 10, 1987; amended at 12 Ill. Reg. 11543, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1761 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2761 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17863; amended at 14 Ill. Reg. 10578, effective July 1, 1990; amended at 16 Ill. Reg. 11290, effective July 1, 1992; amended at 17 Ill. Reg. 10579, effective July 1, 1993; amended at 18 Ill. Reg. 10318, effective July 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 2761.20 Definitions

"Approved High School" - means any public high school located in this State; and any high school located in this State or elsewhere (whether designated as a high school, secondary school, academy, preparatory school, or otherwise) which in the judgment of the State Superintendent of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially the equivalent of those of public high schools located in this State. (Section 10 of the Higher Education Student Assistance Act [110 ILCS 947/10]).

"Cumulative Grade Point Average" - means the average grade earned throughout a student's educational program. The calculation shall be consistent with the Institution's established policy or practice and shall be the same as those completed for admission, placement, or other similar purposes.

"Eligible Applicant" - means a student from any approved high school located in this State whose 7th semester cumulative high school grade

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

point average is at or above the 95th percentile, or 90th percentile with respect to students who graduated from such an approved high school during the 1986-87 or 1987-88 school year, of his or her high school class, and who by reason thereof is entitled to apply for scholarships to be awarded under this Section. (Section 30(a) of the Higher Education Student Assistance Act (1987-Rev. Stat. 1991-CH 144-PAR. 303b(a)) [110 ILCS 947/30(a)])

"Graduating Class" - The total number of students to complete the high school's program of instruction and graduate within an Academic Year.

"Qualified Student" - means a person: of good moral character who is a resident of this State and a citizen or permanent resident of the United States, who, as an eligible applicant, has made a timely application for merit recognition scholarship under this Section, who has successfully completed the program of instruction at any approved high school located in this State, and who enrolls or is enrolled in a qualified Illinois institution of higher learning or a Service Academy as an undergraduate student or cadet and has not received a baccalaureate degree. (Section 30(a) of the Higher Education Student Assistance Act (1987-Rev. Stat. 1991-CH 144-PAR. 303b(a)) [110 ILCS 947/30(a)])

"Service Academy" - means the U.S. Air Force Academy, the U.S. Coast Guard Academy, the U.S. Military Academy or the U.S. Naval Academy, hereinafter referred to as an "Institution".

"Seventh Semester" - means the period of instruction, at the completion of which, a student has completed eighty percent of the Approved High School's program of instruction. The seventh semester will usually be the student's next to last Term.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2761.30 Program Procedures

a) In February of every year, approved High Schools in Illinois shall certify to the Illinois Student Assistance Commission (ISAC) the names of students who are Eligible Applicants.

1) The certification of names shall be submitted on forms provided by ISAC. Certifications submitted by Approved High Schools shall be subject to audit by ISAC.

2) ISAC shall then promptly notify those Eligible Applicants who are reasonably assured of receiving Merit Recognition Scholarships in accordance with annual funding levels recommended in the Governor's Budget.

3) Eligible Applicants must have completed their Seventh Semester of

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

instruction at an Approved High School in Illinois.

- b) Eligible Applicants shall be sent a Merit Recognition Scholarship application which must be completed by the student and the postsecondary institution attended by the Applicant. A complete application must be received by ISAC within one year of High School graduation but absolutely no later than June 15th of the Academic Year immediately following graduation from the Approved Illinois High School. Should the recipient transfer to a different institution after submission of the application, the enrollment transfer must be reported to ISAC in order to receive scholarship payments.
- c) ISAC shall disburse scholarship funds in two increments based on the Terms financed by the scholarship. Scholarship funds may be used to finance expenses for a summer Term.

1) The application form constitutes a request for payment of first Term benefits. ISAC shall issue payment request rosters for Institutions to request payment for subsequent Terms.

2) Funds shall be remitted to Institutions on behalf of the Qualified Students. When requesting payment of scholarship funds, the Institution shall certify that the recipient is: a U.S. Citizen or Eligible Noncitizen; a Resident of Illinois; of Good Moral Character; accepted for enrollment on at least a half-time basis; not the recipient of a baccalaureate degree.

3) Upon receipt of scholarship funds, the Institution shall verify the recipient's enrollment status. If the recipient is Enrolled, the Institution may credit the disbursement funds to the recipient's account for expenses then due and payable. The balance of the disbursement shall be released to the recipient.

4) If the recipient has withdrawn from enrollment or drops to less than half-time enrollment prior to disbursement, the Institution shall return the full amount of the funds to ISAC. The Institution shall notify ISAC if a student withdraws or drops to less than half-time at any time during the Academic Year.

d) Scholarship funds are applicable to two semesters or three quarter Terms and must be used for educational expenses, including, but not limited to, Tuition and fees, room and board, books and supplies, required Service Academy uniforms, and travel and personal expenses related to the recipient's enrollment.

e) Should the recipient withdraw from enrollment during the first Term first-term financed by the scholarship, the recipient shall return the funds disbursed to ISAC.

f) Notwithstanding the previous provisions of this Section, students who graduated during the 1986-87 or 1987-88 school year whose grade point averages were at or above the 90th percentile of their high school class and who were otherwise eligible to apply for a scholarship under this Part shall:

- 1) be eligible for a scholarship in the amount of \$500;
- 2) have had their names certified as Eligible Applicants by Approved High Schools on forms submitted to ISAC;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 3) have submitted an application to the Institution at which they are currently enrolled by November 15 of the academic year in which funds have been appropriated for this purpose;
- 4) have institutions verify that the Qualified Student is: a U.S. Citizen or Eligible Noncitizen; a Resident of Illinois; of Good Moral Character; accepted for enrollment on at least a half-time basis; and is not the recipient of a baccalaureate degree;
- 5) have the scholarships awarded under this subsection provided by a separate appropriation of the General Assembly; and
- 6) have a scholarship awarded by ISAC in order of decreasing percentile as determined by their 7th semester cumulative high school grade point average, if funds appropriated are insufficient to provide all Qualified Students with an award.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Minority Teachers of Illinois (MTI) Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2763
- 3) Section Numbers: Proposed Action:
 2763.40 Amended
 2763.50 Amended
- 4) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2763.40(g)(5) has been added to ensure that recipients agree to provide ISAC with evidence of compliance with program requirements, such as filling out annual questionnaires. Section 2763.50(e)(4) now includes a cross-reference to the Special Education Teacher Tuition Waiver Program, which is among the forms of ISAC assistance that a Scholar may not concurrently receive.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-8500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2763

MINORITY TEACHERS OF ILLINOIS (MTI) SCHOLARSHIP PROGRAM

Section	Summary and Purpose
2763.10	Definitions
2763.20	Minority Scholar Eligibility
2763.30	Application Procedures
2763.40	Institutional Procedures
2763.50	

AUTHORITY: Implementing Section 50 of the Higher Education Student Assistance Act [110 ILCS 947/50] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15621, effective October 11, 1991, for a maximum of 150 days; emergency expired on March 9, 1992; adopted at 16 Ill. Reg. 7048, effective April 21, 1992; emergency amendments adopted at 16 Ill. Reg. 16326, effective September 28, 1992, for a maximum of 150 days; emergency expired on February 25, 1993; emergency amendment at 17 Ill. Reg. 175, effective January 1, 1993, for a maximum of 150 days; emergency expired on June 1, 1993; amended at 17 Ill. Reg. 10585, effective July 1, 1993; amended at 18 Ill. Reg. 10325, effective July 1, 1994; amended at 19 Ill. Reg. 8361, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2763.40 Application Procedures

- a) Applications for the Minority Teachers of Illinois Scholarship Program are available from qualified institutions of Higher Learning, State Legislative and congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.
- b) ISAC will mail renewal applications to all Qualified Students who received MTI Scholarships during the preceding Academic Year.
- c) A completed application must be received in ISAC's Deerfield office on or before the August 1 immediately preceding the Academic Year for which the scholarship is being requested in order to receive priority consideration for a full-year, full-amount award.
- d) If the student section of an application is incomplete, notification will be sent to the Eligible Applicant. The Eligible Applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the student section is complete and received by ISAC. If the school section of an application is incomplete, ISAC will notify the Institution directly. When the school submits the missing information

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

ISAC will consider the application filed on the date that it was originally received.

e) Eligibility notification shall be sent to each Qualified Student who is selected as a Minority Scholar.

f) Eligible Applicants shall be required to furnish the postsecondary Institution at which they are enrolled with a copy of their high school transcripts, any other documentation verifying high school graduation, or a copy of their General Educational Development Certificates.

g) During any Academic Year in which a Minority Scholar receives assistance under this Part, the Minority Scholar shall be required to sign a Teaching Agreement/Promissory Note prior to receipt of any scholarship assistance. The terms of the Teaching Agreement/Promissory Note shall include the following:

1) a pledge on the part of the recipient to teach one year for each year of scholarship aid received, or for any portion of a year for which aid was received, under this Part;

2) a stipulation that such teaching requirement will be fulfilled within the 10-year period following the termination of the undergraduate program for which the Minority Scholar received assistance under this Part;

3) a stipulation that such teaching requirement will be fulfilled at a nonprofit Illinois public, private, or parochial preschool, elementary school or secondary school at which no less than 30 percent of the enrolled students are Minority Students, as certified by the Illinois State Board of Education; and

4) a further stipulation that, if the teaching requirement is not fulfilled, the scholarship converts to a loan and the Minority Scholar must repay the entire amount of the scholarship(s) prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to that defined by federal regulations and, if applicable, reasonable collection fees; and-

5) a further stipulation that the Minority Scholar agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).

h) A Minority Scholar shall not be in violation of the teaching agreement, and thus not be required to commence repayment as set forth in subsection (g)(4) of this Section, if the recipient:

1) enrolls as a full-time graduate student in a course of study related to teaching at a qualified Institution of Higher Learning;

2) serves, for not more than three years, as a member of the United States armed services;

3) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a qualified physician;

4) is seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

(g)(3) of this Section, and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to a teacher certification but remains Enrolled on a full-time basis in another academic discipline.

i) A Minority Scholar shall not be required to repay the amount of the scholarship(s) received if s/he becomes permanently totally disabled as established by the sworn affidavit of a qualified physician (see e.g., 34 CFR 653.42(k)(i)), or if his or her representative provides ISAC with a death certificate or other evidence that the scholar has died.

j) All repayments collected from Minority Scholarship recipients shall be forwarded to the State Comptroller for deposit into the State's General Revenue Fund.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2763.50 Institutional Procedures

a) The Institution shall submit the certification of eligibility for Qualified Students with the Institution's request for payment.

b) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship; except that, multiple disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the Academic Year for which the scholarship is being awarded or when a student is attending only one semester and the maximum award does not exceed the student's Cost of Attendance.

c) Funds shall be remitted by ISAC to Institutions on behalf of Minority Scholars. When requesting payment of scholarship funds, the Institution shall certify to ISAC that the Applicant is a Qualified Student as defined in Section 2763.20 of this Part.

d) Scholarship funds are applicable towards up to two semesters/three quarters of full-time study within an Academic Year. Upon receipt of scholarship funds, the Institution shall verify the Scholar's enrollment status. If the Minority Scholar is Enrolled, the Institution may credit the scholarship funds to the recipient's account for expenses then due and payable. The balance of the disbursement shall be released to the Minority Scholar. If the Minority Scholar has withdrawn from enrollment, the Institution shall return the total amount of the scholarship to ISAC.

e) Scholarship Amount

1) In accordance with this subsection, the Institution at which the Minority Scholar is enrolled shall compute the amount of the scholarship. The Minority Scholar must have reviewed and signed the Teaching Agreement/Promissory Note prior to the receipt of any scholarship assistance.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 2) Minority Teachers of Illinois Scholarships are applicable only toward Tuition and fees and room and board charges or commuter allowances, if applicable. The annual scholarship awarded to a Qualified Student must be the lesser of:
- Tuition and fees plus room and board expenses charged by the Institution;
 - Tuition and fees plus the standard commuter allowance for students living off-campus; or
 - A maximum of \$5,000.
- 3) The total amount of Minority Teachers of Illinois Scholarship assistance awarded to a Scholar in a given Academic Year, when added to the other financial aid available to the Minority Scholar for that year, cannot exceed the Cost of Attendance.
- 4) In any Academic Year in which the Minority Scholar accepts financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), ~~or the~~ David A. DeBolt Teacher Shortage Scholarship Program (see 23 Ill. Adm. Code 2764), or the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code 2765), the Minority Scholar shall not be eligible for scholarship assistance under this Part.
- 5) A Minority Scholar may receive grant assistance under the Monetary Award Program (23 Ill. Adm. Code 2735) only up to the amount by which the Minority Scholar's Cost of Attendance exceeds the amount of the scholarship.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Monetary Award Program (MAP)
- 2) Code Citation: 23 Ill. Adm. Code 2735

Section Numbers:	Proposed Action:
2735.20	Amended
2735.40	Amended
2735.50	Amended
2735.70	Amended
2735.80	Amended
2735.100	Amended

- 4) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947/35 and 20(f)).

- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Certain language has been moved from Section 2735.20(a)(3) to create a new 2735.20(b) for clarification purposes. Section 2735.20(a)(4), regarding incarcerated students, has been deleted since this exclusion is already addressed in General provisions, and is therefore redundant. Section 2735.70(c) has been modified to specify that courses in clock hour programs are not eligible for payment through the MAP program. In Section 2735.80(d) the timeframe for refunds of MAP payments received after the end of the term has been extended from 30 to 60 days, in order to parallel a similar requirement contained in ISAC's General Provisions (23 Ill. Adm. Code 2700.50(c)). Also, "review" has been replaced with "reconciliation" since it is a more descriptive term.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)) and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed Rulemaking:

Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500

- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2735

MONETARY AWARD PROGRAM (MAP)

Section	Summary and Purpose
2735.10	Applicant Eligibility
2735.20	Application for MAP Grants
2735.30	Determination of Financial Eligibility
2735.40	Institutional Packaging of Gift Assistance
2735.50	Institutional Eligibility
2735.60	Enrollment Requirements
2735.70	Disbursement of MAP Grants
2735.80	Contractual Agreement Requirements
2735.100	Advance Payment Formula

APPENDIX A

AUTHORITY: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20857, effective January 1, 1986; amended at 11 Ill. Reg. 3225, effective January 29, 1987; amended at 11 Ill. Reg. 14134, effective August 10, 1987; amended at 12 Ill. Reg. 11546, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1735 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2735 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17864; amended at 14 Ill. Reg. 7242, effective May 1, 1990; amended at 16 Ill. Reg. 11296, effective July 1, 1992; emergency amendment at 16 Ill. Reg. 19237, effective November 23, 1992, for a maximum of 150 days; emergency expired on April 22, 1993; emergency amendment at 17 Ill. Reg. 6672, effective April 15, 1993, for a maximum of 150 days; emergency expired on September 18, 1993; amended at 17 Ill. Reg. 10596, effective July 1, 1993; amended at 17 Ill. Reg. 22576, effective January 1, 1994; amended at 19 Ill. Reg. 8369, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2735.20 Applicant Eligibility

- a) All MAP grant recipients must:
- 1) be Citizens or Eligible Noncitizens of the United States, and Residents of Illinois;
 - 2) be students in good standing in accordance with their Institution's policy of Satisfactory Academic Progress;
 - 3) be Enrolled in an eligible degree or certificate program (34 CFR 668.8) on at least a half-time basis at a MAP-approved postsecondary Institution (Section 2735.60). A recipient may

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

~~receive MAP grant payment for less than half-time enrollment provided the recipient was enrolled on at least a half-time basis throughout the institution's tuition refund withdrawal adjustment period. (See Section 2735.70(g)(1) and 2735.70(g)(2)).~~

b) A recipient may receive MAP grant payment for less than half-time enrollment provided the recipient was enrolled on at least a half-time basis throughout the institution's tuition refund withdrawal adjustment period. (See Section 2735.70(g).)

c) All recipients must demonstrate financial eligibility as determined from the financial data supplied to the Illinois Student Assistance Commission (ISAC). (See: Section 2735.40.)

d) Eligibility is restricted to undergraduate students.

1) MAP recipients must not have received a baccalaureate degree.

2) Graduate Students are not eligible for MAP assistance. For purposes of this Part, an Institution shall classify as a "Graduate Student" any student who:

A) is enrolled in an academic program or course above the baccalaureate level which is leading to any degree above the baccalaureate level; and

B) is not eligible to receive federal financial assistance (34 CFR 64.2, 675.2, 676.2) as an undergraduate student; and

C) has completed the equivalent of at least three years of Full-time postsecondary study, either prior to entrance into the academic program or as part of the academic program itself.

e) A recipient may receive the equivalent of 10 semesters/15 quarters of Full-time MAP grant payment. (See: 23 Ill. Adm. Code 2700.40(h).) If a recipient has accumulated less than 60 ~~sixty~~ eligibility units, s/he may receive one additional Term of Full-time MAP assistance.

f) Seniors in their last Term of enrollment prior to receiving a baccalaureate degree and Applicants Enrolled in student teaching are classified as Full-time Students for purposes of MAP grant eligibility.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2735.40 Determination of Financial Eligibility

a) Applicants, spouses, and the Parents of Applicants are required to submit financial information on the application, which will be kept confidential, regarding income, asset value, and non-taxable income (e.g., Aid to Families with Dependent Children, public aid, veterans' benefits or Social Security).

b) After receipt of corrected data, ISAC shall recalculate awards for those Applicants whose applications are not in basic agreement with their financial records.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

c) MAP grant eligibility is based on the relative financial eligibility at an ISAC-approved Institution of the Applicant's choice, and is re-evaluated if the student's choice of Institution changes.

d) MAP grant recipients request payment through their educational Institution. MAP grant funds are remitted directly to the educational Institution in the name of the recipient after the Institution certifies an Applicant is an eligible recipient.

e) MAP grants are applicable only toward Tuition and Mandatory Fees. MAP grants may not exceed the:

1) Maximum award specified at ~~114 Rev--Stat:1991--Ch--147--Par 3035(e)~~ [10 ILCS 947/15(c)].

2) Institution's Tuition and Mandatory Fee charges on file with ISAC.

f) The maximum MAP grant available to a recipient attending a public community college is limited to the in-district Tuition and Mandatory Fees. It is the recipient's responsibility to make arrangements to pay the additional costs incurred as an out-of-district student. The recipient is advised to contact the in-district community college and/or local high school regarding application procedures and deadline dates.

g) Public community college award recipients shall be eligible for payment up to 19 hours (9.5 hours for half-time).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2735.50 Institutional Packaging of Gift Assistance

a) MAP recipients must report to the Institution all additional Gift Assistance that applies toward Tuition and Mandatory Fees, such as Tuition waivers and scholarships.

b) If a MAP recipient receives other assistance targeted specifically for Tuition and fees, the combined assistance shall not exceed the total Tuition and fee expenses incurred.

c) If an Applicant is eligible for assistance under the Illinois National Guard (NG) Grant Program or the Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2730 and 2733), the Applicant is not eligible for a full MAP grant because NG and IVG must be factored into the financial aid packaging prior to awarding MAP gift assistance. The Institution may request payment of a partial MAP grant to finance fee expenses not covered by the above-referenced programs.

d) If an Applicant is eligible to receive Tuition or fee benefits through a prepaid or reimbursable Tuition plan, or through a payment to the Institution by the Applicant's employer, the Institution shall request MAP payment in accordance with this subsection:

1) A prepaid Tuition plan is any program which exempts a student from Tuition charges because of a payment(s) to the Institution at a time prior to the student's enrollment. A reimbursable

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- b) MAP grants are divided into two semester or three quarter regular Term payments and are paid directly to the approved Institution of Record which certifies to ISAC that the Applicant is an eligible recipient.
- 1) ISAC will annually establish priority claim date for the return of payment request lists and inform schools of the required priority dates.
- 2) Late ~~return-of~~ payment requests ~~request-lists~~ will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.
- 3) Under no circumstances are Institutions to return their payment request lists until after the second week of classes for the Term for which they are requesting payment.
- c) MAP grant payment is subject to the limits of dollars appropriated to ISAC by the General Assembly.
- d) Institutional Processing of Payments

- 1) Within 30 thirty days of receiving payment of any MAP funds claimed or advanced pursuant to this Section, the Institution shall credit the MAP funds against the recipients' Tuition and Mandatory Fee charges for the appropriate Term.
- 2) ~~Following receipt of payment for the Term~~ Institutions are required to ~~reconcile~~ review payments received through the ISAC Monetary Award Program. Any payments received by the Institution that are determined in the reconciliation review to be refunds payable to ISAC are to be processed and returned to ISAC no later than 60 days following the end of the academic Term. Refunds may be caused by billing errors, retroactive withdrawals, and other miscellaneous reasons authorized by these Rules. Should the payment arrive after the end of the Term, the Institution will have 60 days following receipt of payment to complete the reconciliation review process and return any refunds due.
- 3) Award payments made in the name of one recipient cannot be applied to another recipient at the same Institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.
- 4) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than September 1, due to the State's fiscal year lapse period ending on September 30.
- 5) Payment requests received after September 1 for the prior Academic Year will be processed as time and available funds permit; however, final action may require Institutions to go to the Illinois Court of Claims to obtain payment for approved claims. (See: The Court of Claims Act (705 ILCS 505).)
- 6) If the Institution does not submit refunds as required by this Section, ISAC will deduct outstanding refunds from subsequent institutional payment requests.
- e) Advance Payment Option
- 1) MAP-approved Institutions may request consideration for the

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- advance payment option. To be eligible, the Institution must have received MAP payments for each of the last five Academic Years, and ISAC must have completed an audit of the Institution's performance during the aforementioned Academic Years. Institutions with provisional eligibility shall not receive advance payments. (See: 23 Ill. Adm. Code 2700.30(i)(5).)
- 2) Subject to the availability of funds, payments are advanced on a term-by-term basis. Advance payments are made in an amount not to exceed 75 seventy-five percent of a Term's announced recipients, adjusted for attrition as determined by subsection (3)(B). The formula by which ISAC computes an Institution's advance payment is illustrated in Appendix A of this Part.
- 3) For purposes of computing an Institution's advance payment, ISAC uses the lowest retention rate resulting from the following three formulae:

- A) Dollar value of the previous fiscal year's claimed awards divided by the dollar value of the previous fiscal year's announced awards;
- B) Number of claimed awards for the previous fiscal year divided by the number of awards announced during the previous fiscal year;
- C) Using the formula in subsection (e)(3)(B) above, compute the retention rate for the previous five fiscal years. Add the five retention rates and divide by five to produce the five year average retention rate.
- 4) Requests for advance payment shall be submitted by June 1 with the annual tuition and fee charges (see 23 Ill. Adm. Code 2700.30(e)). The balance of payment due for the current Term will be paid to the Institution after ISAC receives a payment request.
- 5) If an advance payment received by an Institution exceeds the total grant payments for which that Institution's students are eligible, the Institution shall submit the appropriate refund to ISAC prior to the end of the Academic Year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2735.100 Contractual Agreement Requirements

- a) The primary purpose of a MAP-approved contractual course of study must be educational and must lead to, and be required for, a degree or certificate in a published course of study offered by an ISAC-approved Institution.
- b) All contractual agreements between ISAC-approved public Institutions and non-approved Institutions must be programs approved by the Illinois Board of Higher Education (IBHE). (See: 23 Ill. Adm. Code 1050.) All ISAC-approved Institutions not governed by the IBHE

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

program review and approval procedures shall submit their contractual agreements to ISAC for approval prior to requesting MAP payment for any contractual course work taken. ISAC shall approve the contractual agreement if the terms are consistent with this Section.

- c) The Institution of Record ~~need~~ must be an ISAC-approved Institution.
d) An ISAC-approved Institution may enter into a contractual agreement with a non-approved Institution/agency only if the approved ISAC Institution does not have specific educational facilities and faculties available within the Institution to offer the Illinois Board of Higher Education approved programs.

- e) All ISAC-approved Institutions are required to submit to ISAC a published curriculum of all courses leading to a certificate or degree in all programs involving contractual agreements between two or more Institutions/agencies. Only courses required for these programs that are included in the published curriculum will be eligible for ISAC payment. Furthermore, only those courses approved by the Illinois Community College Board for baccalaureate or vocational programs in the public community colleges will be eligible for ISAC payment at the public community colleges.

- f) The governing boards of all ISAC-approved Institutions not subject to IBHE contractual guidelines and/or program review and approval procedures should certify to ISAC that the following items are included within the contractual agreement and are the responsibilities of the ISAC-approved Institution:

- 1) Administrative responsibility for the program is with the ISAC-approved Institution;
- 2) Provisions for program supervision including on-site visits by the ISAC-approved Institution;
- 3) Admission policies consistent with the approved Institution's policies;
- 4) Procedures for the maintenance of records and transcripts by the ISAC-approved Institution;
- 5) Statement on student Tuition, fees, and other charges;
- 6) Number of credit hours required and criteria for course completion within the program consistent with the ISAC-approved Institution's policies and guidelines for all programs;
- 7) Student withdrawal policy consistent with ISAC-approved Institution policy;
- 8) Maintenance of liability insurance;
- 9) Responsibility for faculty employment and evaluation;
- 10) Availability of student auxiliary services;
- 11) Consistency with policies, rules, and regulations of other state approval agencies;
- 12) Establishment and utilization of a representative advisory committee;
- 13) Provision for follow-up studies consistent with the ISAC-approved Institution practices;
- 14) Annual program and contract review by the ISAC-approved

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Institution; and

- 15) Certification that the non-approved Institution/agency meets statutory requirements and is approved by appropriate State of Illinois agencies and boards.
g) ISAC requires all ISAC-approved Institutions to indicate the percentage of their own students who participate in the contract program(s) of study, and the percentage of all students enrolled in the non-approved Institution/agency who will receive Tuition assistance through an approved contractual agreement. When either of these percentages exceed 30%, the contractual agreement will not be approved by ISAC.
h) All students wishing to enter into programs where contractual courses are taken must be informed by the ISAC-approved Institution whether these courses are eligible for ISAC payment.
i) The Consortium Agreement shall be filed with ISAC along with annual tuition and fee charges. (See: 23 Ill. Adm. Code 2700.30(e).)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of Part: Paul Douglas Teacher Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2762
- 3) Section Numbers: Proposed Action:
2762.4) Amended
- 4) Statutory Authority: Implementing and authorized by Section 521 et seq. of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1111 et seq.), and Section 20(b) and (f) of the Higher Education Student Assistance Act (110 ILCS 947/20(b) and (f)).

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2762.40(e)(2)(D) has been added to ensure that Scholars will provide ISAC with evidence of compliance with program requirements, such as by replying to annual questionnaires. Section 2762.40(f)(1) has been modified to reflect a change in procedures which no longer require the Scholar to sign the payment request form. Section 2762.40(f)(4) now includes a cross-reference to the Special Education Teacher Tuition Waiver Program, which is among the forms of ISAC assistance that a Scholar may not concurrently receive. And finally, since the Paul Douglas program is a federal program, a provision has been added to Section 2762.40(k) explaining that out-of-state institutions eligible to participate in federal Title IV student assistance programs need not execute an ISAC program participation agreement solely to receive funds on behalf of Paul Douglas scholars.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 405/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-8500
 - 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
 - 13) Regulatory Agenda on which this rulemaking was summarized: January 1996
- The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2762

PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM

Section	Summary and Purpose
2762.10	Definitions
2762.20	Scholar Eligibility
2762.30	Program Procedures
2762.40	

AUTHORITY: Implementing and authorized by Section 521 et seq. of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1111 et seq.), and Section 20(b) and (f) of the Higher Education Student Assistance Act (110 ILCS 947/20(b) and (f)).

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 12690, effective July 18, 1986, for a maximum of 150 days; adopted 11 Ill. Reg. 3159, effective January 29, 1987; amended at 12 Ill. Reg. 11559, effective July 1, 1988; amended at 13 Ill. Reg. 8650, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1762 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2762 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17865; amended at 16 Ill. Reg. 11313, effective July 1, 1992; amended at 17 Ill. Reg. 10611, effective July 1, 1993; amended at 18 Ill. Reg. 10333, effective July 1, 1994; amended at 19 Ill. Reg. 8378, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2762.40 Program Procedures

- a) ISAC applications for the Paul Douglas Teacher Scholarship Program are available for distribution to students from: approved high schools High--Schools in Illinois; offices of Congressional Representatives from the State of Illinois; offices of ISAC in Springfield, Chicago, and Deerfield; and postsecondary institutions throughout Illinois.
- b) A completed application must be received in ISAC's Deerfield office on or before August 1 preceding the Academic Year for which the scholarship is being requested in order to receive priority consideration.

1) All Applicants who had not previously been designated as Scholars should also apply for federal student financial aid to determine EFC for the purpose of determining their rank within their relevant group. (See: 20 U.S.C.A. 1070a.)

2) First-time Applicants must also provide their postsecondary Institution a copy of their high school transcripts, any other documentation which verifies rank in class upon high school

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

graduation, or documentation showing their GED test scores. The Institution shall certify to ISAC whether the Applicant is a Qualified Applicant as defined at Section 2762.30(b).

- c) A congratulatory letter shall be sent to each Qualified Applicant who is selected as a Scholar. A listing of Scholars shall be made available to Institutions, members of Congress, and to the media.
- d) Renewal applications are mailed annually to eligible Scholars and must be submitted to ISAC on or before August 1 preceding the Academic Year for which the scholarship is being requested in order to receive priority consideration.

- e) Prior to receiving scholarship assistance for any Academic Year, the Scholar must sign a Teaching Agreement/Promissory Note that is submitted to ISAC.

1) The Teaching Agreement/Promissory Note shall require the Scholar to either:

- A) fulfill the teaching requirements within ten years after completing the postsecondary education degree program for which the scholarship was awarded, or

- B) repay all or part of the scholarship, plus interest, as provided by Federal Regulations. (See: 34 CFR 653.42(c)(1).) The teaching requirement is prorated based upon whether the student received the scholarship for a semester or quarter rather than a full Academic Year.

2) The Teaching Agreement/Promissory Note shall include:

- A) a stipulation that the Scholar teach on a full-time basis for a period of not less than two years, for each year of assistance received, in a public or private nonprofit preschool, elementary, or secondary school, or
- B) a stipulation that the Scholar teach, on a full-time basis, children with disabilities or children with limited English proficiency in a private non-profit school, and
- C) a stipulation that teaching time shall be reduced to one-half if performed in a geographic area or an academic discipline certified as a "teacher shortage area" by the U.S. Secretary of Education, and

- D) a further stipulation that the Scholar agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaire, etc.).

f) Scholarship Amount

- 1) In accordance with this subsection, the Scholar's postsecondary Institution shall compute the amount of the scholarship and shall submit a request form. ~~the Scholar must have reviewed and signed the Payment Request Form.~~

- 2) Except as otherwise provided in this subsection, scholarships shall be in the amount of \$5,000 if the student is enrolled for the full Academic Year. The maximum scholarship for one semester is \$2,500; the maximum scholarship for one quarter is \$1,666.67.

- 3) If a Paul Douglas Teacher Scholarship, when added to the amount

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

the Scholar is to receive for the same Academic Year under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1070 et seq.), would exceed the Scholar's cost of attendance, as defined at Section 472 of the Higher Education Act of 1965 (20 U.S.C.A. 108711), as amended, the Institution shall take the receipt of the scholarship into account in determining the student's eligibility for other federal financial aid programs. A Paul Douglas Teacher Scholarship shall not be reduced because of the receipt of other federal student assistance.

4) In any Academic Year in which the Scholar accepts financial assistance through the Special Education Teacher Tuition Waiver Program (see: 23 Ill. Adm. Code 2765), DeBolt Teacher Shortage Scholarship Program (see: 23 Ill. Adm. Code 2764), or the Minority Teachers of Illinois Scholarship Program (see: 23 Ill. Adm. Code 2763), the Scholar shall not be eligible for scholarship assistance under this Part.

5) A Scholar may receive grant assistance under the Monetary Award Program (23 Ill. Adm. Code 2735) only up to the amount by which the Scholar's cost of attendance exceeds the amount of the scholarship.

g) Scholarship funds are applicable towards two semesters/three quarters of full-time study within an Academic Year. Upon receipt of scholarship funds, the Institution shall verify that the Scholar continues to be enrolled. The Institution may then credit scholarship funds to the recipient's account for expenses then due and payable. The balance of the scholarship funds shall be released to the Scholar. If the Scholar withdraws from enrollment, the Institution shall return the amount of the scholarship to ISAC for the semester(s) or quarter(s) not attended.

h) A Scholar will be entitled to defer payments due, as outlined in subsection (e)(1)(B) of this Section, during any period in which the recipient meets the conditions outlined in Section 528 of the Higher Education Act, as amended, or applicable federal regulations (see: 34 CFR 653.62(g)).

i) A Scholar shall be excused from repayment, for any scholarship assistance received under this Part, if the recipient becomes permanently totally disabled as established by the sworn affidavit of a qualified physician or if his or her representative provides ISAC with a death certificate or other evidence that the Scholar has died.

j) Scholars and Applicants may appeal administrative decisions made pursuant to this Part in accordance with ISAC appeal procedures (see: 23 Ill. Adm. Code 2700.70).

k) Out-of-state Institutions that are eligible to participate in Title IV federal student financial aid programs need not execute a Program Participation Agreement with ISAC to receive funds on behalf of Douglas Scholars.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

_____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Robert C. Byrd Honors Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2755
- 3) Section Numbers:
 2755.30 Proposed Action:
 2755.40 Amended
 2755.50 Amended
- 4) Statutory Authority: Implementing Section 65.60 of the Higher Education Student Assistance Act [110 ILCS 947/65.60] and Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d-31 et seq.) and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: Section 2755.30(b) has been edited to exclude redundant requirements. The program procedures contained in Section 2755.40(e) have been clarified. Section 2755.40(e)(1)(A) now requires that high schools use the same scale in reporting the grade point averages of all applicants to ensure equity within a high school's applicant population. Section 2755.40(e)(1)(B) has been added to specify that high schools which do not submit class ranks for applicants shall have their students' scores computed using a class rank of one in a class size of one, in order to allow for these applicants to be included in the competition. Finally, since the Byrd Program is a federal program and recipients may use the scholarship at out-of-state institutions eligible to participate in Title IV student assistance programs, Section 2755.50(e) has been added to provide that out-of-state institutions need not execute an ISAC program participation agreement solely to receive funds on behalf of Byrd scholars.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Ms. Raquel G. Martinez
 Compliance Counsel
 Illinois Student Assistance Commission
 1755 Lake Cook Road
 Deerfield, Illinois 60015
 (708) 948-9500

- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2755

ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Section

2755.10 Summary and Purpose

2755.20 Definitions

2755.30 Scholar Eligibility

2755.40 Program Procedures

2755.50 Institutional Procedures

APPENDIX A Geographic Districts

AUTHORITY: Implementing Section 65.60 of the Higher Education Student Assistance Act [110 ILCS 947/65.60] and Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d-31 et seq.) and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 19 Ill. Reg. 8386, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2755.30 Scholar Eligibility

a) A completed application for a Robert C. Byrd Honors Scholarship must be received in ISAC's Deerfield Office on or before January 15 preceding the Academic Year for which the scholarship is being requested.

b) ~~A in-addition-to-fitting-an-application-on-a-timely-basis-a~~ "Qualified Applicant" must:

- 1) be a United States Citizen or Eligible Noncitizen; and
 - 2) be a Resident of Illinois; and
 - 3) become a High School Graduate in the same high school year in which s/he submits the scholarship application, and must demonstrate outstanding academic achievement as measured by test scores and high school records; or
 - 4) have received a General Educational Development (GED) test score recognized by the General Educational Development Testing Service as the equivalent to ranking in the top five percent of the United States' High School Graduates; and
 - 5) be Enrolled or accepted for enrollment on a full-time basis as an undergraduate student in a postsecondary Institution that is approved by the U.S. Department of Education to participate in Federal student financial assistance programs. (See, e.g., 34 CFR 600.10, 600.20, 668.12.)
- c) Applicants will be notified whether they are Qualified Applicants. A

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

non-Qualified Applicant may appeal a finding of ineligibility in accordance with 23 Ill. Adm. Code 2700.70, Appeal Procedures.

d) Byrd Scholars must be Enrolled on a full-time basis for the first year of study. If after the first year of study, the Byrd Scholar has unusual circumstances, s/he may request a waiver of the full-time enrollment requirement. A waiver form shall be completed by the Scholar, and submitted to ISAC with accompanying documentation. Provided the student continues to be enrolled on at least a half-time basis, the circumstances under which an exception to the full-time enrollment requirement may be granted include:

- 1) the Byrd Scholar's employment hours will not permit additional course load;
 - 2) the Byrd Scholar has medical problems that will not permit full-time attendance, as established by the sworn statement of a licensed physician;
 - 3) the Byrd Scholar is in his/her last semester of school and additional course work to complete the degree is not required; or
 - 4) the care of an immediate family member due to illness or incapacitation will not permit an additional course load.
- e) A Byrd Scholar may postpone or interrupt his or her full-time enrollment at an institution for a maximum of 12 months.
- f) A student who receives a scholarship under this Part, and who is subsequently determined to be ineligible, shall repay to ISAC the total amount of the funds received for the period during which s/he was ineligible.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 2755.40 Program Procedures

- a) Applications for the Robert C. Byrd Scholarship are available for distribution to students from: approved high schools in Illinois; offices of district and Regional Superintendents of Education of the State of Illinois; offices of ISAC in Springfield, Chicago and Deerfield.
- b) ISAC shall accept applications to be a Robert C. Byrd Honors Scholar in accordance with Section 2755.30 of this Part, Scholar Eligibility.
- c) If the student section of the application is incomplete, notification shall be sent to the Applicant. The Applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the student section is complete and received in ISAC's Deerfield office.
- d) From among timely applications, ISAC shall identify Qualified Applicants.
- e) ISAC shall select new Byrd Scholars from among the highest scoring Qualified Applicants on the basis of the following criteria:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Academic Data. A Qualified Applicant's score shall be computed as follows:
 ((number in class divided by rank) x .05)
 + ((grade point average divided by scale) x 100)
 + (Illinois Standard Test Score x 10) = score
- A) Grade point average shall be computed as of the end of the sixth semester of high school study or its equivalent. A school shall use the same scale in reporting all of its Applicants.
- B) SAT I scores are converted to ACT scores and test scores used in this Part shall be converted to the Illinois Standard Test Score as described in Part 2760, State Scholar Program, Section 2760.30 and Appendices A and B.
- C) If both ACT and SAT I scores are submitted, the higher score, after conversion to ACT, is used.
- D) For Applicants qualifying by virtue of their GED scores (see Section 2755.30(b)(4) of this Part), class rank shall be set at 5 out of 100 (top 5%) and average GED percentile rank shall be used in lieu of grade point average divided by scale.
- E) For those high schools that do not submit class ranks, the Applicant scores shall be computed using number in class and rank as equal to one.
- 2) Geographic District. New Robert C. Byrd Honors Scholarships will be allocated to Geographic Districts in accordance with Appendix A of this Part. An Applicant's county of residence shall be determined by his or her permanent home address.
- f) Scholarships will be awarded first to renewing Scholars. A Byrd Scholar will continue to be eligible for a scholarship if the postsecondary Institution at which the student is enrolled certifies that the Byrd Scholar is:
- 1) maintaining enrollment as a Full-time Full-time Student, except as provided in Section 2755.30(d) of this Part;
 - 2) maintaining Satisfactory Academic Progress as determined by the Institution;
 - 3) not in default on any Federal student loan nor owing repayment on any state or federal student financial assistance grant; and
 - 4) not receiving federal financial aid in excess of the student's Cost of Attendance, as determined by the Institution.
- g) ISAC performs the calculations regarding grade point averages, test scores, class rank and size in accordance with the procedures established for the State Scholar Program (see 23 Ill. Adm. Code 2760.30 and Appendices A and B).
- h) New Byrd Scholars are selected from each of the 15 Geographic Districts, and on an at-large basis, in accordance with the number of awards set forth in Appendix A to this Part. The at-large Scholars shall be chosen from among the highest scoring non-selected Qualified Applicants statewide, regardless of their geographic district.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- i) The total number of scholarships awarded in a given fiscal year is contingent upon available funding (see Section 419D of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d-34), Allocation Among States), notwithstanding the number of new scholarships outlined in Appendix A to this Part.
 - j) Byrd Scholars will be informed of their selection by the April 1 preceding the Academic Year for which the scholarship was requested.
 - k) All high schools with Robert C. Byrd Scholars will be notified of the Scholars attending their Institution by April 15.
 - l) All Qualified Applicants not selected to be Byrd Scholars will be sent letters notifying them that they have not been chosen.
 - m) If an individual does not accept the offer of a new scholarship award, the next highest scoring Qualified Applicant not yet selected from the same Geographic District will be chosen to receive a scholarship.
 - n) New and renewal Byrd Scholars will complete an "Eligibility Certification," which includes annual certification statements required by ED.
 - o) ISAC shall send verification/payment rosters to Institutions on which they will certify the students' eligibility to receive the Byrd Scholarships.
 - p) Scholarship funds are applicable towards two semesters/three quarters of full-time study within an Academic Year, and shall be sent to the Institution on behalf of the Scholar(s).
- (Source: Amended at 20 Ill. Reg. _____, effective _____)
- ### Section 2755.50 Institutional Procedures
- a) Institutions shall ensure that ISAC receives verification/payment rosters prior to the beginning of the fall Term.
 - b) Upon receipt of scholarship funds, the Institution(s) shall verify that the Byrd Scholar(s) continues to be Enrolled. The Institution may then credit scholarship funds to the recipient's account for expenses then due and payable. The balance of the scholarship funds shall be released to the Scholar. If the Byrd Scholar withdraws from enrollment, the Institution shall return the amount of the scholarship to ISAC for the semester(s) or quarter(s) not attended.
 - c) The total amount of the Byrd Scholarship awarded to a Byrd Scholar in any given Academic Year, when added to the other Federal or State financial aid available to the Byrd Scholar for that year, cannot exceed the student's Cost of Attendance.
 - 1) The amount of any federally guaranteed student loans should be decreased prior to reducing the amount of the Byrd Scholarship.
 - 2) The Byrd Scholarship should be decreased prior to reducing the amount of a Federal Pell Grant.
 - 3) A Monetary Award Program (MAP) grant should be decreased prior to reducing the amount of a Byrd Scholarship.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- d) Except as provided in Section 2755.50(c) of this Part, a Byrd Scholar may receive \$1500 for each Academic Year, up to a maximum of four years of study.
- e) Out-of-state institutions that are eligible to participate in Title IV federal student financial aid programs need not execute a Program Participation Agreement with ISAC to receive funds on behalf of Byrd Scholars.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: State Scholar Program
- 2) Code Citation: 23 Ill. Adm. Code 2760
- 3) Section Numbers: Proposed Action:
 2760.30 Amended
 2760.40 Amended
 2760.Appendix A Repealed
 2760.Appendix B Repealed
- 4) Statutory Authority: Implementing Section 25 and authorized by Section 20 (f) of the Higher Education Student Assistance Act (110 ILCS 947/25 and 20(f)).

- 5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: The provisions describing the term in which a student must take the required tests are modified in Section 2760.30(a). By referencing the number of terms prior to graduation when the test may be taken, this Section now fits a wider variety of circumstances more clearly, including students who graduate early, and those who have a lesser number of high school terms due to having attended a middle school. Section 2760.30(d) provides more specific language regarding the required activities of a high school in calculating and providing ISAC with class ranks. Section 2760.30(e) is amended substantially to update the manner in which the Illinois Standard Test Score is computed. Last year, due to a re-centering of the SAT tests, no direct equivalent was provided between an ACT score and an SAT I score. During that one transitional year, it was necessary to first convert a new SAT I score to an original SAT score before determining its ACT equivalent. Information allowing for the direct conversion of an SAT I score to its ACT equivalent has now been provided by the testing services, so a new, updated table is included for that purpose in Section 2760.30(e)(2), and all references to the temporary conversion used last year are deleted. Also, the temporary intermediate conversion tables contained in Appendices A and B is deleted, since they are no longer necessary. And finally, Section 2760.40 is added in response to client inquiries. That subsection now outlines the eligibility requirements for private high schools that wish to nominate students for consideration as State Scholars.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice.
- Comments should be submitted to:
- Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015
(708) 948-8500
- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2760
STATE SCHOLAR PROGRAM

Section	Summary and Purpose
2760.5	Selection Criteria
2760.10	Testing and Class Ranking of Students to be Considered for Program
2760.30	Other Information
2760.40	

APPENDIX A	SAT Verbal Equivalence Table (Repealed)
APPENDIX B	SAT Mathematical Equivalence Table (Repealed)

AUTHORITY: Implementing Section 25 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/25 and 20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 4 Ill. Reg. 16, p. 118, effective April 7, 1980; rules repealed, new rules adopted at 5 Ill. Reg. 7251, effective June 26, 1981; amended at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10878; amended at 9 Ill. Reg. 27877, effective January 1, 1986; amended at 11 Ill. Reg. 3242, effective January 29, 1987; amended at 11 Ill. Reg. 14137, effective August 10, 1987; amended at 13 Ill. Reg. 8654, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1760 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2760 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17868; amended at 14 Ill. Reg. 10589, effective July 1, 1990; amended at 16 Ill. Reg. 11321, effective July 1, 1992; amended at 17 Ill. Reg. 10624, effective July 1, 1993; amended at 18 Ill. Reg. 10346, effective July 1, 1994; amended at 19 Ill. Reg. 8395, effective July 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2760.30 Testing and Class Ranking of Students to be Considered for Program

- a) To be considered for the State Scholar Program, a student must take either the American College Testing (ACT) Assessment or the College Board's SAT I: Reasoning Test, during the third or fourth year of the fifth or sixth semester prior to graduation from a high school (e.g., for a student attending high school for the traditional eight semesters, the exam must be taken during the fifth or sixth semester). Students planning to graduate from high school in other than the traditional four-year must take such examination in an equivalent year; e.g., the three-year graduate must take the examination in the third or fourth semester.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) A student may take either or both examinations during the designated period.
- 2) All scores from such tests taken during the designated period must be submitted to ISAC.
- 3) If a student submits scores from any two examinations taken during the designated period, ISAC will use the higher of the two scores.
- 4) If the student submits scores from more than two examinations, taken during the designated period, ISAC will disregard the lowest score and use the average of the remaining scores.
- 5) When a student submits scores to ISAC, the student must report his/her Academic Level at the time the test was taken.

b) ISAC will accept supplementary score reports of tests taken during the designated period upon the student's authorization to the test service. Such authorization by the student must be received by ISAC before August 1.

c) Students who, for any reason, are unable to take a test on a regular testing date should make special arrangements to be tested in accordance with the procedures of the testing service. Any such special arrangements must take into account the test score submission deadline in subsections (a) and (b) of this Section.

d) In order for its students to be considered for the State Scholar Program, a high school must calculate and provide to ISAC the sixth semester class ranks of students who desire to be considered for the State-Scholar Program.

- 1) Class ranks are to be calculated so that the class rank for the lowest Grade Point Average (GPA) equals the total number of students being ranked.

Example:	Class Rank	GPA
1	99.3	
2	98.9	
3	98.9	
4	98.1	
5	97.9	
5	97.9	
7	97.4	

2) The equivalent term rank shall be provided for students planning to graduate in other than the traditional four years (see 2760.30(a) for example class-ranks-for-three-year-graduates shall be determined at the conclusion of the fourth semester.

e) Test scores submitted in accordance with this Part shall be converted to an Illinois Standard Test Score as follows:

- 1) The ACT Assessment Composite Score shall be the Illinois Standard Test Score.
- 2) Effective with all SAT-I tests administered as of April 1995:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

reentered SAT I verbal and math scores shall be converted to original SAT scores using the equivalent table below. The equivalent table in Appendix A and B to this Part of the equivalent original SAT verbal and math scores shall be added, and then converted to the Illinois Standard Test Score using the table below.

Illinois Standard Test Score Table

Illinois Standard Test Score	SAT I Verbal + Math V+M	ACT Composite
36	1580 to 1600 1550 to 1580	36
35	1530 to 1570 1490 to 1540	35
34	1500 to 1520 1440 to 1480	34
33	1450 to 1490 1380 to 1430	33
32	1400 to 1440 1330 to 1370	32
31	1360 to 1390 1290 to 1320	31
30	1320 to 1350 1240 to 1280	30
29	1280 to 1310 1200 to 1230	29
28	1240 to 1270 1160 to 1190	28
27	1200 to 1230 1120 to 1150	27
26	1170 to 1190 1070 to 1100	26
25	1130 to 1160 1030 to 1060	25
24	1090 to 1120 990 to 1020	24
23	1050 to 1080 950 to 980	23
22	1010 to 1040 910 to 940	22
21	970 to 1000 860 to 900	21
20	930 to 960 820 to 850	20
19	890 to 920 770 to 810	19
18	850 to 890 720 to 760	18
17	810 to 840 680 to 710	17
16	760 to 800 630 to 670	16
15	710 to 750 580 to 620	15
14	660 to 700 540 to 570	14
13	620 to 650 500 to 530	13
12	570 to 610 460 to 490	12
11	520 to 560 420 to 450	11
10	470 to 510 410 to 430	10
9	430 to 460 400	9
8	400 to 420	8

f) High School class ranks submitted in accordance with this Part shall be converted to an Illinois Standard Rank Score as follows:

- 1) First, determine the percentile of the class rank for each student in accordance with the following formula:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Percentile = [Size of Class MINUS (Rank in Class minus .5)]
divided by Size of Class

- 2) Then, use table below to convert a percentile class rank to the Illinois Standard Rank Score.

Percentile	Illinois Standard Rank Score
99.75 - 99.99	30
99.54 - 99.74	29
99.19 - 99.53	28
98.62 - 99.18	27
97.73 - 98.61	26
96.42 - 97.72	25
94.53 - 96.41	24
91.93 - 94.52	23
88.50 - 91.92	22
84.14 - 88.49	21
78.82 - 84.13	20
72.58 - 78.81	19
65.55 - 72.57	18
57.94 - 65.54	17
50.00 - 57.93	16

- g) An Illinois Weighted Selection Score for each student shall be computed by multiplying the Illinois Standard Test Score by two, and adding that result to the Illinois Standard Rank Score.

- h) In any Academic Year, the number of State Scholars is approximately equal to ten percent of the estimated total number of Illinois high school graduates. ISAC annually establishes a minimum Weighted Selection Score to yield this result.

- i) Notwithstanding the previous provisions in this Section, any student nominated by his or her school shall be designated a State Scholar if that student achieves a score at or above the 95th percentile on the American College Testing (ACT) standardized assessment examination, or the equivalent thereof on a comparable examination, regardless of that student's class rank.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2760.40 Other Information

- a) High school School officials or student candidates shall have a period of 60 days following the announcement of the State Scholars to appeal a student's status. (See: 23 Ill. Adm. Code 2700.70, Appeal Procedures.)
- b) A Certificate of Achievement and congratulatory letter are issued for each State Scholar.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

- c) A listing of State Scholars shall be available upon request to colleges, members of the General Assembly, and to the media.
- d) If an appeal concerning an Applicant's eligibility is received, ISAC shall request the high school to verify the reported data. If the conflict remains, ISAC shall conduct an audit of the high school's records in accordance with 23 Ill. Adm. Code 2700.60.
- e) Mailing labels of State Scholars' names shall be available, at cost, to Illinois colleges and associations of Illinois colleges. Payment must be received by ISAC at the time the mailing labels are ordered. Requestors of labels shall provide written assurance to ISAC that the labels will not be resold or released to others in any manner.

- f) In order for a student to be considered eligible for designation as a State Scholar, the student must attend an approved high school. An approved private high school is any high school located in Illinois which, in the judgment of the State Superintendent of Education, provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to those of public high schools located in Illinois. The State Superintendent's approval is demonstrated through a "Certificate of Nonpublic School Recognition" issued by the Illinois State Board of Education (ISBE).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2760.APPENDIX A SAT Verbal Equivalence Table (Repealed)

Centered-Scale-to-Original-Scale

Recentered Scale	Original Scale	Recentered Scale	Original Scale
800	740	500	420
790	730	490	410
780	720	480	400
770	710	470	390
760	700	460	380
750	690	450	370
740	680	440	360
730	670	430	350
720	660	420	340
710	650	410	330
700	640	400	320
690	630	390	310
680	620	380	300
670	610	370	290
660	600	360	280
650	590	350	270
640	580	340	260
630	560	330	250
620	550	320	240
610	540	310	230
600	520	300	220
590	510	290	210
580	500	280	200
570	490	270	190
560	480	260	180
550	470	250	170
540	460	240	160
530	450	230	150
520	440	220	140
510	430	210	130
		200	120

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Section 2760.APPENDIX B SAT Mathematical Equivalence Table (Repealed)

Recentered-Scale-to-Original-Scale

Recentered Scale	Original Scale	Recentered Scale	Original Scale
800	780	500	470
790	770	490	460
780	760	480	450
770	750	470	440
760	740	460	430
750	730	450	420
740	720	440	410
730	710	430	400
720	700	420	390
710	690	410	380
700	680	400	370
690	670	390	360
680	660	380	350
670	650	370	340
660	640	360	330
650	630	350	320
640	620	340	310
630	610	330	300
620	600	320	290
610	590	310	280
600	580	300	270
590	570	290	260
580	560	280	250
570	550	270	240
560	540	260	230
550	530	250	220
540	520	240	210
530	510	230	200
520	500	220	190
510	490	210	180
		200	170

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-9500

12) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Student to Student (STS) Program of Matching Grants

2) Code Citation: 23 Ill. Adm. Code 2770

3) Section Numbers: Proposed Action:

2770.20 Amended
2770.30 Amended

4) Statutory Authority: Implementing Section 65 and authorized by Section 20(f) of the Higher Education Student Assistant Act [110 ILCS 947/65 and 20(f)].

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: The definition of "college or university" has been modified in Section 2770.20 to reflect the dissolution of the Board of Governors and the Board of Regents by Public Act 89-0004. All institutions previously governed by these boards are now individually named. Section 2770.30(p) has been added to require that an institution carry forward no more than 10% of matching funds received under this Part to the next academic year. And, Section 2770.30(q) has been added to require that matching funds awarded under this Part be requested in the same year in which the student contribution is obtained.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Comments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2770

STUDENT TO STUDENT (STS) PROGRAM OF MATCHING GRANTS

Section

2770.10 Summary and Purpose

2770.20 Definitions

2770.30 Program Procedures and Requirements

AUTHORITY: Implementing Section 65 and authorized by Section 20(f) of the Higher Education Student Assistant Act [110 ILCS 947/65 and 20(f)].

SOURCE: Adopted at 4 Ill. Reg. 6, p. 221, effective January 30, 1980; codified at 7 Ill. Reg. 9925; transferred from Chapter IX, 23 Ill. Adm. Code 1770 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2770 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17867; amended at 16 Ill. Reg. 11329, effective July 1, 1992, amended at 17 Ill. Reg. 10632, effective July 1, 1993; amended at 18 Ill. Reg. 10354, effective July 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 2770.20 Definitions

"College or University" - means any of the State-supported Institutions of higher learning, including Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University (Carbondale), Southern Illinois University (Edwardsville), University of Illinois (Chicago), University of Illinois (Springfield), University of Illinois (Urbana) and Western Illinois University administered by the Board of Trustees of the University of Illinois; the Board of Trustees of Southern Illinois University; the Board of Regents of the Regency Universities; the Board of Governors of the State Colleges; and Universities; the boards of trustees of or public community colleges; college districts as established and defined by the Public Community College Act. (Section 65(a) of the Higher Education Student Assistance Act (4110 Rev. Stat. 1991, ch. 144, par. 3865(c)-(see 947-947-997-effective-September-30-1992)) [110 ILCS 947/65(a)]

"Voluntary Contribution" - includes fees collected from students by college or university officials when such fee is optional or refundable to students and has been approved by a majority of those voting in a campus-wide referendum of students. (Section 65(a) of the Higher Education Student Assistance Act)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2770.30 Program Procedures and Requirements

- a) An eligible program is an organized, need-based monetary awards (gift assistance) program for undergraduate students at an Illinois College or public University. The funds for those programs must be derived from Voluntary Contributions raised by students from students of that College or University according to a plan developed and approved by the students and consistent with College or University policies.
- b) Voluntary Contributions can be obtained from graduate students; the assistance program, however, can aid only undergraduates. A portion of the total contribution can be used to aid graduate students. Funds set aside for graduate students will not be matched by the Commission.
- c) Students shall approve the plan for raising Voluntary Contributions by a majority of those voting in a campus-wide referendum.
- d) The contributions, to be eligible for matching funds, must be voluntary (as contrasted to a non-refundable fee or charge). Only those Voluntary Contributions made by enrolled students of the College or University are eligible for matching. If any fund raising activity yields contributions from other individuals or organizations, the Voluntary Contributions by enrolled students must be clearly identifiable.
- e) Particular care must be employed in implementing contribution plans that generate contributions from non-students. The law leaves no latitude in this regard. Special cash receipt systems must be used to make certain that student contributions are clearly identifiable.
- f) No eligible contribution can exceed \$9.00 per academic year.
- g) The \$1,000 annual limit on a STS award shall be applicable to all terms including the summer term.
- h) Only students who demonstrate need by some nationally recognized needs analysis system can be considered for STS matching grants.
- i) STS funds can be used for undergraduates who are otherwise eligible for an ISAC monetary award but have completed their tenth 10 + semesters or fifteen 15 + quarters of eligibility.
- j) Each Institution desiring to participate in this program shall inform ISAC, annually in writing, by the deadline specified by the Commission. The method of seeking student approval of a fund raising plan shall be included in such letter.
- k) A claim for matching funds can be submitted to ISAC by dates specified by the Commission. The initial claim shall include:
 - 1) the amount of the claim;
 - 2) how general student approval was obtained;
 - 3) how funds were collected;
 - 4) the steps employed to insure that student contributions were voluntary; and
 - 5) documentation that the claim includes only Voluntary

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT(S)

Contributions by enrolled students.

- 1) A supplementary claim can be filed after a filing date for the purpose of adjusting a regular claim filed earlier.
- m) A pro-rata distribution, if any, will be determined in accordance with general Commission action.
- n) After ISAC has reviewed a claim and computed the proration, ISAC shall process the necessary voucher for a check payable to the College or University for the awards.
- o) Each participating College or University shall submit to ISAC an annual report, no by net later than August 15, following the award year, of the activities, operations, and results of its STS grant program. ISAC shall forward a copy of such report to the Illinois Board of Higher Education.
- p) No Institution can carry more than 10% of Student to Student matching funds over to the next Academic Year.
- q) Matching funds must be requested in the same Academic Year in which the student contribution is obtained.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Administrative and Judicial Review

- 2) Code Citation: 62 Ill. Adm. Code 1847

- 3) Section Numbers Adopted Action

1847.3 Amend

1847.4 Amend

1847.5 Amend

1847.6 Amend

1847.7 Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

- 5) Effective Date of Amendments: January 19, 1996

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: January 19, 1996

- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1454 - February 17, 1995

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

All Ill. Rev. Stat. cites have been stricken.

In the Source note, change "11095" to "10887".

In Section 1847.3(a), strike "1773.21(c)" and replace with "1773.24", in subsection (b), strike the ";" and add a ";"; in subsection (f), strike "Director's" and replace with "final"; in subsection (l), strike "3)" and move paragraph to "(2)".

In Section 1847.4(c), strike "of" and add "after" after "days"; in subsection (g), strike "Director's" and replace with "final"; in subsection (p), change "3" to "Art. III".

In Section 1847.5(c)(1), insert "Natural Resources, Office of" between "of" and "Mines and Minerals"; subsection (f), insert "final" and strike "of the Director" and add "of this Section" after "(n)"; subsection (o), change "3" to "Art. III"

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

In Section 1847.5(1), strike "Director's" and replace with "final"; in subsection (n), change "3" to "Art. III".

In Section 1847.7(h), strike "Director's" and replace with "final"; in subsection (1), change "3" to "Art. III".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s):

Section 1847.3 sets forth administrative review provisions for various types of proceedings. Its title is proposed to be revised because it covers various types of hearings and is not limited to permit hearings. Subsection (a) is proposed to be amended by adding clarifying language that a Departmental decision not to inspect or enforce under 62 Ill. Adm. Code 1840.17 is subject to administrative review, as well as permit decisions issued pursuant to 62 Ill. Adm. Code 1785.23. Subsection (1)(2) is proposed to be amended in response to the Office of Surface Mining Reclamation and Enforcement's requirement at 58 Fed. Reg. 46832 (September 3, 1993).

Sections 1847.3, 1847.4, 1847.5, 1847.6 and 1847.7 are proposed to be amended to allow parties to administrative hearings an opportunity to file written exceptions and responses thereto with the hearing officer who issued a proposed decision in the proceeding.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1847
ADMINISTRATIVE AND JUDICIAL REVIEW

Section	Scope
1847.1	Construction
1847.2	Permit Hearings
1847.3	Citation Hearings
1847.4	Civil Penalty Assessment Hearings
1847.5	Show Cause Hearings
1847.6	Bond Forfeiture Hearings
1847.7	Individual Civil Penalty Hearings
1847.8	Bond Release Hearings

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10887, effective July 1, 1993; amended at 20 Ill. Reg. 1919, effective JAN 19 1996.

Section 1847.3 Permit Hearings

- a) Within thirty (30) days after an applicant is mailed written notice of the Department's final decision concerning an application for approval of exploration required under 62 Ill. Adm. Code 1772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, a permit rescission or a transfer, assignment, or sale of permit rights, the applicant, or any person with an interest which is or may be adversely affected, may file a written request for a hearing to contest the decision. The procedures outlined in this Section apply to conflict of interest hearings requested under 62 Ill. Adm. Code 1705.21, review of valid existing right determinations under 62 Ill. Adm. Code 1761.12(g), review of exemption determinations under 62 Ill. Adm. Code 1702.11(f) and 1702.17(c)(2), formal review of decisions not to inspect or enforce under 62 Ill. Adm. Code 1840.17, review of a permit issued pursuant to 62 Ill. Adm. Code 1785.23 and hearings requested under 62 Ill. Adm. Code 1773.24 1773-24(e), Failure to file a request for hearing within this thirty (30) day time period shall result in a waiver of the right to such hearing; requests for hearing filed after the expiration of the thirty (30) day time period shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12.

- b) The hearing request shall state:¹⁷
1) The petitioner's name and address;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) A clear statement of the facts entitling the petitioner to relief, including the petitioner's interest(s) which is or may be adversely affected by the Department's final decision;
- 3) How the Department's final decision may or will adversely affect the interest(s) specified;
- 4) An explanation of each specific alleged error in the Department's final decision, including reference to the statutory and/or regulatory provisions allegedly violated;
- 5) The specific relief sought from the Department; and
- 6) Any other relevant information.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Unless a pre-hearing conference has been scheduled or unless the person requesting the hearing waives the thirty (30) day time limit, the Department shall start the hearing within thirty (30) days of the hearing request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under 62 Ill. Adm. Code 1773.13(c) or a public hearing under 62 Ill. Adm. Code 1773.14 shall either preside at the hearing or participate in the decision following the hearing.
- e) Notice of hearing. The petitioner and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office.
- f) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the final Director's decision referred to in subsection (j) below is issued.
- g) Burden of proof. The party seeking to reverse the Department's decision shall have the burden of proving that the Department's decision was clearly erroneous.
- h) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.
- i) Within fifteen (15) ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the Director hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have fifteen (15) ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- j) If no written exceptions are filed, the hearing officer's proposed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- decision shall become final fifteen (15) ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the hearing officer's proposed decision, or shall vacate the hearing officer's decision and remand the proceeding to the hearing officer for further action for rehearing.
- k) Request for temporary relief.
 - 1) Any party may file a request for temporary relief at any time prior to a decision by the hearing officer, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part. The request for temporary relief shall include:
 - A) A detailed written statement setting forth the reasons why relief should be granted;
 - B) A statement of the specific relief requested;
 - C) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and
 - D) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources.
 - 2) The hearing officer may hold a hearing on any issue raised by the request for temporary relief.
 - 3) Within fifteen (15) days after the close of the record on the request for temporary relief, the hearing officer shall issue an order or decision granting or denying such temporary relief. Temporary relief may be granted only if:
 - A) All parties to the proceeding have been notified and given an opportunity to be heard on the request for temporary relief;
 - B) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding;
 - C) Such relief will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air or water resources; and
 - D) The relief sought is not the issuance of a permit where a permit has been denied by the Department, in whole or in part, except that continuation under an existing permit shall be allowed where the applicant has a valid permit issued pursuant to 62 Ill. Adm. Code 300.
 - 1) Judicial review. Following service of the Department's final administrative decision, any person with an interest which is or may be adversely affected and who has participated in the administrative hearing under this Section may request judicial review of that decision in accordance with the Administrative Review Law [4735 ILCS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

5, Art. III, § 9, if:

- 1) The person is aggrieved by the Department's final administrative decision; or
- 2) The hearing officer or Department failed to act within the time limits specified in the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [425 ILCS 720.1] or this Section.
- 3) Review under this subsection shall not be construed to limit rights established in Section 8.05 of the State Act [425 ILCS 720/8.05].

(Source: Amended at 20 Ill. Reg. 1919, effective JAN 10 1996)

Section 1847.4 Citation Hearings

- a) A person issued a notice of violation or cessation order under 62 Ill. Adm. Code 1843.11 or 1843.12, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice of violation or cessation order, may request review of that action by filing a request for hearing within thirty (30) days after receiving notice of the action. No extension of time will be granted for filing a request for hearing.
- b) Failure to file a request for hearing in accordance with subsection (a) shall not preclude challenging the fact of violation during a civil penalty review proceeding pursuant to 62 Ill. Adm. Code 1847.5.
- c) If a hearing has been requested and a civil penalty is subsequently assessed for the notice of violation or cessation order for which the hearing was requested, the proposed penalty assessment must be forwarded to the Department, in accordance with Section 1847.5(c), within thirty (30) days after receipt of the proposed assessment, for placement in escrow, in order to continue the review proceedings. Failure to forward the money to the Department within thirty (30) days after receipt of the proposed penalty assessment shall result in a waiver of all legal rights to contest both the fact of the violation and the amount of the penalty; requests for hearing filed after the expiration of the thirty (30) day time period shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12. Contents of request. The hearing request shall include:
 - 1) A statement of facts entitling the person to relief;
 - 2) A statement indicating the reasons why the fact of the violation is being contested;
 - 3) A statement of the specific relief requested; and
 - 4) Any other relevant information.
- e) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- f) Notice of hearing. The applicant and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office, at the mine site, and to the extent possible in a newspaper of general circulation in the area of the mine at least five (5) days prior to the hearing.

- g) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the final Director's decision referred to in subsection (k) is issued.

h) Burden of proof.

- 1) In citation hearing proceedings conducted under this Section, the Department shall have the burden of going forward to establish a prima facie case as to the validity of the notice, order, or modification, vacation or termination thereof.

2) The ultimate burden of persuasion shall rest with the person who requested the hearing.

- i) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.

j) Within fifteen (15) ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the Director hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have fifteen (15) ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

- k) If no written exceptions are filed, the hearing officer's proposed decision shall become final fifteen (15) ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the hearing officer's proposed decision, or shall vacate the hearing officer's decision and remand the proceeding to the hearing officer for further action for rehearing.

l) The filing of a request for a hearing under this Section shall not operate as a stay of any notice or order, or of any modification, termination, or vacation of any notice or order.

- m) Settlement agreement.
 - 1) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice or order was issued will be deemed to have waived all right to further review of the violation or penalty in question, except as otherwise

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.

- 2) If full payment of the amount specified in the settlement agreement is not received by the Department within the agreed upon period after the date of signing, the Department may enforce the agreement or rescind it and proceed to collect the original face amount of the assessment within thirty (30) days from the date of the rescission.

n) Summary disposition. Where the person against whom the notice of violation or cessation order was issued fails to appear at a hearing requested by him, that person will be deemed to have waived his right to a hearing and the hearing officer may assume for purposes of the proceeding:

- 1) That each violation listed in the notice of violation or cessation order occurred; and
- 2) The truth of any facts alleged in such notice or order.

o) Temporary relief.

- 1) Pending completion of a hearing held under this Section, the applicant may file with the Department a written request for temporary relief from any notice or order issued under Section 8.06 of the State Act. The applicant shall not apply to the courts for immediate injunctive relief until a written order or decision granting or denying temporary relief is issued by the hearing officer.

- 2) When to file. An application for temporary relief may be filed by any party to a proceeding under this Section at any time prior to a decision by the hearing officer.

- 3) Contents of application. The application for temporary relief shall include:

- A) A detailed written statement setting forth the reasons why relief should be granted;
 - B) A showing that there is a substantial likelihood that the findings of the Department will be favorable to the applicant;
 - C) A statement that the relief sought will not adversely affect the health and safety of the public or cause significant, imminent environmental harm to land, air or water resources;
 - D) If the application relates to an order of cessation issued pursuant to Section 8.06(b) or (c) of the State Act, a statement of whether the requirement of Section 8.07(d) of the State Act for decision on the request within five (5) days is waived; and
 - E) A statement of the specific relief requested.
- 4) Response to application. Except as provided in subsection (c)(5)(B) below, all parties to the proceeding to which the application relates shall have five (5) days from the date of receipt of the application to file a written response.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) Determination on application.

A) If the five (5) day requirement of Section 8.07(d) of the State Act is waived, the hearing officer shall expeditiously conduct a hearing and render a decision on the application for temporary relief.

B) If there is no waiver of the five (5) day requirement of Section 8.07(d) of the State Act, the following special rules shall apply:

- i) The five (5) day time for decision shall not begin to run until the application is received by the hearing officer.

- ii) The applicant shall serve all parties with a copy of the application simultaneously with the filing of the application. If service is accomplished by mail, the applicant shall inform such other parties by telephone at the time of mailing that an application is being filed, the contents of the application and with whom the application was filed.

- iii) All parties may indicate their objection to the application by communicating such objection to the hearing officer and the applicant by telephone. All parties shall simultaneously reduce their objections to writing. The written objections must be immediately filed with the hearing officer and served upon the applicant.

- iv) Upon receipt of the application the hearing officer shall immediately schedule a hearing and inform all parties of the time, date and location of the hearing by telephone. The hearing officer shall reduce such communication to writing in the form of a memorandum to the file. Such hearing may be conducted by telephone if all parties are so amenable.

- v) The hearing officer shall either rule from the bench on the application for temporary relief, orally stating the reasons for his decision, or he shall within twenty-four (24) hours of completion of the hearing issue a written decision.

- vi) The order or decision of the hearing officer shall be issued within five (5) working days after the receipt of the application for temporary relief.

- vii) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to supply the information required by subsection (c)(3), such action shall constitute a waiver of the five (5) day requirement of Section 8.07(d) of the State Act.

- 6) Temporary relief may be granted under such conditions as the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

hearing officer may prescribe, if:

A) Unless waived, a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

B) The applicant shows that there is substantial likelihood that the finding of the Department will be favorable to him; and

C) Such relief will not adversely affect the health and safety of the public or cause significant, imminent environmental harm to land, air or water resources.

p) Judicial review. Following service of the Department's final administrative decision, the permittee or any affected person may request judicial review of that decision in accordance with the Administrative Review Law ~~41 Ill. Rev. Stat. 1991r-0.197-0.197-3-101 through 3-112+~~ (735 ILCS 5. Art. III).

(Source: Amended at 20 Ill. Reg. 1919, effective JAN 9 1996.)

Section 1847.5 Civil Penalty Assessment Hearings

a) Within thirty (30) days after receipt of a proposed civil penalty assessment, the person against whom the proposed penalty was assessed may request a hearing to contest the fact of the violation or the proposed penalty by filing a written request for hearing.

b) The request for hearing shall include:

1) A short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;

2) Identification by number of all violations being contested; and

3) The identifying number of the cashier's check, certified check, bank draft, personal check, or bank money order accompanying the hearing request.

c) The hearing request shall be accompanied by:

1) Full payment of the proposed assessment in the form of a cashier's check, certified check, bank draft, personal check or bank money order made payable to the Illinois Department of Natural Resources, Office of Mines and Minerals to be placed in an escrow account pending final determination of the assessment; and

2) On the face of the payment an identification by number of the violation(s) for which payment is being tendered.

d) Failure to file the proposed penalty assessment with the Department within thirty (30) days after receipt of the proposed penalty assessment shall result in a waiver of all legal rights to contest both the fact of the violation and the amount of the penalty.

e) No extension of time will be granted for full payment of the proposed penalty assessment. If payment is not made within the time period

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

established in this Section, the fact of the violation and the appropriateness of the amount of the penalty shall be deemed admitted, the request for hearing shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12, and the civil penalty assessment shall become a final administrative decision of the Department.

f) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.

g) The applicant and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office, at the mine site, and to the extent possible in a newspaper of general circulation in the area of the mine at least five (5) days prior to the hearing.

h) Settlement agreement.

1) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice or order was issued will be deemed to have waived all right to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.

2) If full payment of the amount specified in the settlement agreement is not received by the Department within the agreed upon period after the date of signing, the Department may enforce the agreement or rescind it and proceed to collect the original face amount of the assessment within thirty (30) days from the date of the rescission.

i) Summary disposition.

1) Where the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume for purposes of the assessment:

A) That each violation listed in the notice of violation or cessation order occurred; and

B) The truth of any facts alleged in such notice or order.

2) In order to issue an order or decision assessing the appropriate penalty when the person against whom the proposed civil penalty was assessed fails to appear at the hearing, the hearing officer shall either conduct an ex parte hearing or require the Department to furnish proposed findings of fact and conclusions of law.

j) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the final decision of the Director referred to in subsection (n) of this Section has been issued.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- k) Burden of proof. In civil penalty review proceedings, the Department shall have the burden of going forward to establish a prima facie case as to the fact of the violation and the amount of the civil penalty and the ultimate burden of persuasion as to the amount of the civil penalty. The person who requested the hearing shall have the ultimate burden of persuasion as to the fact of the violation.
- l) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.
- 1) If the hearing officer finds that:
- A violation occurred or that the fact of the violation is uncontested, he shall establish the amount of the penalty giving due weight to the Department's proposed civil penalty assessment; amount;
 - No violation occurred, he shall issue an order that the proposed assessment be returned to the petitioner.
- 2) If the hearing officer reduces the amount of the civil penalty below that of the Department's proposed assessment, the Department shall within thirty (30) days remit the appropriate amount to the person who made the payment, with interest at the rate of six (6) percent, or at the prevailing United States Department of Treasury rate, whichever is greater.
- 3) If the hearing officer increases the amount of the civil penalty above that of the Department's proposed assessment, the hearing officer shall order payment of the appropriate amount within thirty (30) days after receipt of the decision.
- m) Within fifteen (15) ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have fifteen (15) ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- n) If no written exceptions are filed, the hearing officer's proposed decision shall become final fifteen (15) ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the hearing officer's proposed decision, or shall vacate the hearing officer's decision and remand the proceeding to the hearing officer for further action for rehearing.
- o) Judicial review. Following service of the Department's final administrative decision, the permittee or any affected person may

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

request judicial review of that decision in accordance with the Administrative Review Law (415 ILCS 5/Art. III-9-101 through 9-112) [735 ILCS 5/Art. III-9].

(Source: Amended at 20 Ill. Reg. 1919, effective JAN 19 1996)

Section 1847.6 Show Cause Hearings

- Whenever a show cause order is issued under 62 Ill. Adm. Code 1843.13, the permittee shall have thirty (30) days from the completion of service of the show cause order in which to file an answer and request a hearing.
- Contents of answer. The permittee's answer to a show cause order shall contain a statement setting forth:
 - A detailed explanation as to why a pattern of violations does not exist or has not existed, including all reasons for contesting:
 - The fact of any of the violations alleged by the Department as constituting a pattern of violations;
 - The willfulness of such violations; or
 - Whether such violations were caused by the unwarranted failure of the permittee;
 - All mitigating factors the permittee believes exist in determining the terms of the revocation or the length and terms of the suspension;
 - Any other alleged relevant facts; and
 - Whether a hearing on the show cause order is desired.
- Show cause hearings shall be held at the Department's Springfield, Illinois office.
- Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- Notice of hearing. The Department shall give written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 to all parties. The Department shall publish the notice, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operation, and shall post it at the Department's office closest to the operation.
- Settlement agreement. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the show cause order was issued will be deemed to have waived all right to further review of the show cause order, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.
- Summary disposition. Where the person to whom the show cause order was issued fails to appear at the hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume the truth of any facts alleged in the show cause order.
- Burden of proof. In proceedings to suspend or revoke a permit, the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Department shall have the burden of going forward to establish a prima facie case for suspension or revocation of the permit. The ultimate burden of persuasion that the permit should not be suspended or revoked shall rest with the permittee.

- i) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the final Director's decision referred to in subsection (1) is issued.

- j) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request. The hearing officer's proposed decision shall include a determination as to whether a pattern of violations exists and, if appropriate, a proposed order suspending or revoking the permit. Permit suspension shall be imposed if the hearing officer determines that this remedy creates less potential harm to the environment and to the health and safety of the public than permit revocation.

- k) Within fifteen (15) ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the Director hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have fifteen (15) ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

- l) If no written exceptions are filed, the hearing officer's proposed decision shall become final fifteen (15) ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's his final administrative decision affirming or modifying the hearing officer's his proposed decision, or shall vacate the hearing officer's decision and remand the proceeding to the hearing officer for further action for rehearing.

- m) Failure to file a timely answer or request for hearing on a show cause order upon which service is deemed complete under 62 Ill. Adm. Code 1843.14 shall, upon motion of the Department in accordance with 62 Ill. Adm. Code 1848.12, result in the Department's issuance of an order suspending or revoking the permit and the permittee's right to mine, which shall constitute the Department's final administrative decision in the matter.

- n) Judicial review. Following service of the Department's final administrative decision, the permittee may request judicial review of that decision in accordance with the Administrative Review Law (414

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Rev---Stat---1991-ent---pass---3-191-through-3-112} (735 ILCS 5 Art. II).
 119.

(Source: Amended at 20 Ill. Reg. 1919, effective
 JAN 10 1996)

Section 1847.7 Bond Forfeiture Hearings

- a) Time for request. After receipt of bond forfeiture notification in accordance with 62 Ill. Adm. Code 1800.50(a)(1), the permittee may request a hearing. The hearing must be requested within fifteen (15) days after of the permittee's receipt of bond forfeiture notification. If the permittee does not request a hearing within fifteen (15) days after of receipt of the bond forfeiture notification, the Department shall issue a final administrative decision ordering forfeiture. The Department's final administrative decision ordering bond forfeiture shall be transmitted to the Attorney General for collection at the expiration of the time to perfect administrative review pursuant to subsection (1).
- b) Bond forfeiture hearings shall be held at the Department's Springfield, Illinois office.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Notice of hearing. All parties shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the Department's offices.
- e) Settlement agreement. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the bond forfeiture notification was issued will be deemed to have waived all right to further review of the bond forfeiture notification, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.
- f) Summary disposition. Where the person to whom the bond forfeiture notification was issued fails to appear at the hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume the truth of any facts alleged in the bond forfeiture notification.
- g) Burden of proof. In bond forfeiture proceedings the Department shall have the burden of going forward to establish a prima facie case for bond forfeiture. The ultimate burden of persuasion that the bond should not be forfeited shall rest with the permittee.
- h) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the final Director's decision referred to in subsection (4) is issued.
- i) Within thirty (30) days after the close of the record for the bond

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

forfeiture hearing, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the bond forfeiture determination.

j) Within fifteen (15) ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the Director hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have fifteen (15) ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

k) If no written exceptions are filed, the hearing officer's proposed decision shall become final fifteen (15) ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the hearing officer's proposed decision, or shall vacate the hearing officer's decision and remand the proceeding to the hearing officer for further action for rehearing.

l) The Department's final administrative decision may be appealed in accordance with the Administrative Review Law (4311-Rev.-Stat.-1991 ch.-1107-pars.-3-101-through-3-112) [735 ILCS 5/Art. III].

(Source: Amended at 20 Ill. Reg. 1919 , effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the part: Areas Designated by Act of Congress

2) Code Citation: 62 Ill. Adm. Code 1761

3) Section Numbers Adopted Action

1761.11 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amendments: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1470 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

The Chapter heading has been changed to "Department of Natural Resources".
The first paragraph of Section 1761.11 is new subsection "(a)"; all subsections have been renumbered under this Section; in new (a)(4)(B), "Natural Resources, Office of" has been added before "Mines".

12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s):

Section 1761.11 sets forth areas where mining is prohibited or limited, subject to valid existing rights (VER), and has been amended in order to remove confusion as to whether the prohibition is applicable to planned subsidence. Although counterpart federal regulations do not apply the prohibitions of 30 CFR 761.11 to underground mining, Illinois has historically applied such prohibitions indirectly. That is, planned

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

subsidence operations have been required to establish VER in order to impact protected lands or features. However, the Department will allow subsidence within the buffer zone if the right to subsidize within the buffer zone has been established, and the protected land or feature will not be materially damaged or adversely impacted by the adjacent subsidence operations. The amendment clarifies this with regard to public roads.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62761-137
Telephone: (217) 782-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES DEPARTMENT-OP-MINES-AND MINERALS
TITLE 62: MINING

PART 1761
AREAS DESIGNATED BY ACT OF CONGRESS

Section
1761.1 Scope
1761.11 Areas Where Mining is Prohibited or Limited
1761.12 Procedures

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4933; amended at 11 Ill. Reg. 7976, effective July 1, 1987; amended at 14 Ill. Reg. 11777, effective January 1, 1991; amended at 15 Ill. Reg. 17115, effective January 1, 1992; amended at 17 Ill. Reg. 10909, effective July 1, 1993; amended at 20 Ill. Reg. 19354, effective JAN 9 1996.

Section 1761.11 Areas Where Mining is Prohibited or Limited

a) Subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on the date of enactment:

1)a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) or study rivers or study river corridors as established in guidelines pursuant to that Act published at 47 FR 39454 (September 7, 1982), and National Recreation Areas designated by Act of Congress. The guidelines at 47 FR 39454 do not include any subsequent editions or amendments;

2)b) On any Federal lands within the boundaries of any national forest; provided, however, that surface coal mining operations may be permitted on such lands, if the Secretary of the United States Department of the Interior (Secretary) finds that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining operations; and surface operations and impacts are incident to an underground coal mine;

3)c) On any lands which will adversely affect any publicly owned park or any places included on the National Register of Historic

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

places, unless approved jointly by the Department and the Federal, State or local agency with jurisdiction over the park or places;

4) Within one hundred feet 100 feet measured horizontally of the outside right-of-way line of any public road, except:

A) Where mine access roads or haulage roads join such right of way lines; or

B) Where the Illinois Department of Natural Resources, Office of Mines and Minerals (Department) and the public road authority with jurisdiction over the road under Illinois law allows the public road to be relocated, closed, or where the Department allows the area affected including surface areas impacted by planned subdivider to be within one hundred feet 100 feet of such road, after:

i) A) Public notice and opportunity for a public hearing in accordance with Section 1761.12(c); and

ii) B) Making a written finding that the interests of the affected public and landowners will be protected;

5) Within three hundred feet 300 feet measured horizontally, from any occupied dwelling in existence, under construction, or contracted for at the time of public notice, except when:

A) The owner thereof has provided a written waiver consenting to surface coal mining operations closer than three hundred feet 300 feet; or

B) The part of the mining operation which is within three hundred feet 300 feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling;

6) Within three hundred feet 300 feet measured horizontally of any public building, school, church, community or institutional building, or public park; or

7) Within one hundred feet 100 feet measured horizontally of a cemetery. Cemeteries may be relocated if authorized by applicable State law or regulations.

b) There will be no surface coal mining, permitting, licensing or exploration of Federal lands in the National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas, unless called for by Acts of Congress.

(Source: Amended at 20 Ill. Reg. 1035, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

2) Code Citation: 62 Ill. Adm. Code 1800

3) Section Numbers Adopted Action

1800.5 Amend
1800.20 Amend
1800.21 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amend ends: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1474 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

The Chapter heading has been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In the Source note, "17 Ill. Reg. 11031," has been correct to read "17 Ill. Reg. 10916,".

In Section 1800.21(a)(4) and (c)(4), "One hundred thousand dollars" and the parentheses around "\$100,000" have been stricken.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s):

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1800.5(b)(4) has been amended to allow the Department to accept letters of credit from national charter banks and banks organized in other states that are not authorized to operate in Illinois, under certain conditions. Section 1800.21(b)(1) has been similarly amended.

Section 1800.20 sets forth requirements governing surety bonds. Subsections (b)(2) through (5) have been deleted because they are unnecessary and were removed from federal counterpart regulations. The deletions have no effect or impact on the surety bond requirements of the Department's program.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section	
1800.1	Scope and Purpose
1800.2	Objective (Repealed)
1800.4	Department Responsibilities
1800.5	Definitions
1800.11	Requirement to File a Bond
1800.12	Form of the Performance Bond
1800.13	Period of Liability
1800.14	Determination of Bond Amount
1800.15	Adjustment of Amount
1800.16	General Terms and Conditions of Bond
1800.17	Bonding Requirements for Underground Coal Mines and Long-Term Coal-Related Surface Facilities and Structures
1800.20	Surety Bonds
1800.21	Collateral Bonds
1800.30	Replacement of Bonds
1800.40	Requirement to Release Performance Bonds
1800.50	Forfeiture of Bonds
1800.60	Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 20 Ill. Reg. 1939, effective JAN 19 1996.

Section 1800.5 Definitions

- a) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.
- b) Collateral bond means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:
 - 1) A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable only to the Department upon demand, or the deposit of cash

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- directly with the Department;
- 2) Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of, and placed in the possession of, the Department;
 - 3) Negotiable certificates of deposit, made payable or assigned to the Department and placed in its possession or held by a federally-insured bank;
 - 4) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, in another state of the United States, or in the United States by national charter, payable only to the Department upon presentation provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate and pay the letter upon presentation in Illinois; or
 - 5) Other investment-grade rated securities having a rating of AAA, AA, or A or an equivalent rating issued by a nationally recognized securities rating service, endorsed to the order of, and placed in the possession of the Department.

(Source: Amended at 20 Ill. Reg. 1989, effective JAN 19 1996)

Section 1800.20 Surety Bonds

- a) A surety bond shall be executed by the operator and a corporate surety licensed to do business in Illinois.
- b) Surety bonds shall be subject to the following conditions:
 - 1) The Department shall not accept the bond of a surety company unless the surety company is licensed to do business in the State of Illinois as surety and bond shall not be cancelable by the surety at any time for any reason including, but not limited to, non-payment of premiums or bankruptcy of the permittee during the period of liability. Surety bond coverage for permitted lands not disturbed shall be cancelled if the surety gives at least ninety (90) days notice to the Department of the intent to cancel prior to cancellation. Such notice shall be by certified mail and shall not be effective until received by the Department. Cancellation shall not be effective for lands subject to bond coverage which have already been disturbed or are disturbed after receipt of notice, but prior to approval by the Department. The Department may allow continuation of surface coal mining and reclamation operations on the land for which the bond is cancelled only if a replacement bond is filed by the permittee prior to the cancellation date, or the permit is amended so that the surface coal mining operations approved under the permit are reduced to the degree necessary to cover all the costs attributable to the completion of reclamation operations on the reduced permit area in accordance with Section 1800.11(b)(2).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) The Department will not accept a surety company's bond in excess of the company's maximum single obligation as provided by Section 144 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, Ch. 73, par. 7567) unless the surety company satisfied the requirements prescribed by that provision for exceeding that limit.
 - 3) The Department shall not accept surety bonds from a surety company for any person for all permits held by that person in excess of three (3) times the company's maximum single obligation as provided by Section 144 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, Ch. 73, par. 7567).
 - 4) The Department may provide in the bond that the amount shall be confessed to judgment upon forfeiture.
 - 5) The bond shall provide that the surety and the permittee shall be jointly and severally liable.
- (Source: Amended at 20 Ill. Reg. 1989, effective JAN 19 1996)

Section 1800.21 Collateral Bonds

- a) Collateral bonds, except for letters of credit and cash accounts, shall be subject to the following conditions:
 - 1) The Department shall keep custody of collateral deposited by the applicant until authorized for release or replacement as provided in Sections 1800.30 and 1800.40.
 - 2) The Department shall value collateral at its current market value, not at face value.
 - 3) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.
 - 4) The Department shall not accept an individual certificate of deposit in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- b) Letters of credit shall be subject to the following conditions:
 - 1) The letter may only be issued by a bank organized or authorized to do business in the United States in Illinois, in another state of the United States, or in the United States by national charter ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate and pay the letter upon presentation in Illinois.
 - 2) Letters of credit shall be irrevocable during their terms. A

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.

- 3) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 1800.50.
- 4) The Department shall not accept a letter of credit in excess of ten percent (10%) of the issuing bank's total capital and surplus accounts, as certified by the President of the bank providing the letter of credit and as evidenced by the most recent quarterly Call Report provided to the Federal Deposit Insurance Corporation. The ten percent (10%) limit, as used in this subsection, shall be a cumulative total of all letters of credit submitted to the Department by any one issuing bank.

- 5) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

c) Cash accounts shall be subject to the following conditions:

- 1) The Department may authorize the permittee to supplement the bond through the establishment of a cash account in one or more federally-insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Department. The total bond including the cash account shall not be less than the amount required under terms of performance bonds including any adjustments, less amounts released in accordance with Section 1800.40.

- 2) Any interest paid on a cash account shall be retained in the account and applied to the bond value of the account unless the Department has approved the payment of interest to the permittee.
- 3) Certificates of deposit may be substituted for a cash account in accordance with subsection (a).

- 4) The Department shall not accept an individual cash account in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

d) Bond value of collateral.

- 1) The estimated bond value of all collateral posted as assurance under Section 1800.21 shall be subject to a margin which is the ratio of bond value to market value, as determined by the Department. The margin shall reflect legal and liquidation fees,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

as well as value depreciation, marketability, and fluctuations which might affect the net cash available to the Department to complete reclamation.

- 2) The bond value of collateral may be evaluated at any time, but it shall be evaluated as part of permit renewal and, if necessary, the performance bond amount increased or decreased. In no case shall the bond value of collateral exceed the market value.
- e) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the Department at the time collateral is offered.

(Source: Amended at 20 Ill. Reg. 1999, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Civil Penalties

2) Code Citation: 62 Ill. Adm. Code 1845

3) Section Numbers Adopted Action

1845.12

Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amendments: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1481 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

All Ill. Rev. Stat. cites have been stricken and replaced with ILCS cites.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): Section 1845.12 governs when civil penalties will be assessed for notices of violation and cessation orders. On September 3, 1993, the Office of Surface Mining Reclamation and Enforcement (OSMRE) disapproved current subsection (d), stating that "Illinois must consider all civil penalty criteria, not just history of previous violations, in determining whether to require payment of a penalty of less than \$1,100.00." 58 Fed. Reg. 46831 (September 3, 1993). The proposed amendment to subsection (d) addresses OSMRE's concerns.

16) Information and questions regarding these adopted amendments shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Name: Karen Jacobs

Legal Counsel

Address: 524 South Second St.

Springfield, IL 62701-1787

Telephone: (217) 782-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1845
CIVIL PENALTIES

- Section
1845.1 Scope
1845.2 Objective
1845.11 How Assessments are Made
1845.12 When Penalty Will be Assessed
1845.13 Factors to be Considered in Assessing Civil Penalties
1845.14 Determination of Amount of Penalty: Assessment of Separate Violations for Each Day (Repealed)
1845.15 Assessment of Separate Civil Penalties for Each Day
1845.17 Procedures for Assessment of Civil Penalties
1845.18 Payment of Assessment; Hearing Request Deadline
1845.19 Procedures for Hearing (Repealed)
1845.20 Final Assessment and Payment of Penalty

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9365; amended at 11 Ill. Reg. 8014, effective July 1, 1987; amended at 17 Ill. Reg. 10926, effective July 1, 1993; amended at 20 Ill. Reg. 1946, effective JAN 19 1996.

Section 1845.12 When Penalty Will be Assessed

- a) The Department shall assess a penalty for each cessation order.
b) The Department shall assess a penalty for a notice of violation if an assessment of one thousand, one hundred dollars (\$1,100.00) or more is derived in accordance with Section 1845.13.
c) Except as provided in subsection (d) below, a penalty shall not be assessed for a notice of violation if an assessment of less than \$1,100 is derived in accordance with Section 1845.13.
d) If the assessment for a notice of violation is below \$1,100, the penalty shall be assessed if the Department shall take into account the factors set forth in Section 1845.13 in determining whether to assess the penalty. If it is the permittee's second or more related violation within a twelve (12) month period, a penalty shall be assessed.

(Source: Amended at 20 Ill. Reg. 1946, effective JAN 19 1996.)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Department Inspections
2) Code Citation: 62 Ill. Adm. Code 1840
3) Section Numbers Adopted Action
1840.11 Amend
1840.17 Amend
4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
5) Effective Date of Amendments: January 19, 1996
6) Does this rulemaking contain an automatic repeal date? No
7) Do these amendments contain incorporations by reference? No
8) Date Filed in Agency's Principal Office: January 19, 1996
9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1485 - February 17, 1995
10) Has JCAR issued a Statement of Objections to these rules? No
11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".
In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1840.11, all "1700 - 1850" references have been changed to "1700 through 1950".

In Section 1840.11(d)(2), at the end of the sentence, "of this Section" has been added; subsection (h)(1), after the word "notice", "and the opportunity to comment" has been added; subsection (h)(1)(F), the word "completed" has been corrected to "completed".

In Section 1840.17(a), after the word "Director", "or his or her designee" has been added; Section 1840.17(b), "Supervisor of the Land Reclamation Division" has been replaced with "Director or his or her designee".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an emergency amendment currently in effect? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): Section 1840.11 sets forth requirements for Department inspections of permitted sites. A heading has been added at subsection (d). New subsections (g) and (h) address inspections at abandoned sites. These proposed amendments closely mirror counterpart federal regulations published at 59 Fed. Reg. 60876 (November 28, 1994).

Section 1840.17 sets forth provisions for informal review of decisions not to inspect or enforce. Subsection (a) has been revised by establishing a 30 day time period within which to request review of the Department's decision not to inspect or enforce where a citizen's request for state inspection has been received. A time limit is necessary for administrative efficiency and to ensure that potential issues do not linger for indeterminate time periods and become moot, yet reviewable.

Subsection (c) has been amended to refer to the proper administrative review provision of the regulations, rather than Section 8.07 of the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720/8.07]. Section 8.07 of the State Act contains provisions for administrative review of enforcement notices or orders. The reference thereto in the current regulations is inappropriate, because administrative review of a decision not to inspect or enforce is not the type of notice or order scenario covered by Section 8.07.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS
TITLE 62: MINING

PART 1840

DEPARTMENT INSPECTIONS

Section	Scope
1840.1	Monitoring and Reporting
1840.2	Inspections by the Department
1840.11	Right of Entry
1840.12	Availability of Records
1840.14	Citizens' Requests for State Inspections
1840.15	Review of Adequacy and Completeness of Inspections
1840.16	Review of Decision Not to Inspect or Enforce
1840.17	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; codified at 2 Ill. Reg. 12288; amended at 11 Ill. Reg. 8036, effective July 1, 1987; amended at 20 Ill. Reg. 1949, effective JAN 9 1996.

Section 1840.11 Inspections by the Department

- a) The Department shall conduct an average of at least one (1) partial inspection per month of each surface coal mining and reclamation operation under its jurisdiction and shall conduct partial inspections of each inactive surface coal mining and reclamation operation under its jurisdiction to ensure enforcement of the approved State program. A partial inspection is an on-site or aerial review of a person's compliance with any of the permit conditions and requirements imposed under the Federal Act, State Act and 62 Ill. Adm. Code 1700 through -- 1850. The inspector shall collect evidence of any violation of the Federal Act, the State Act or 62 Ill. Adm. Code 1700 through -- 1850 observed.
- b) The Department shall conduct an average of at least one (1) complete inspection per calendar quarter of each surface coal mining and reclamation operation under its jurisdiction. A complete inspection is an on-site review of a person's compliance with all permit conditions and requirements imposed under the Federal Act, the State Act and 62 Ill. Adm. Code 1700 through -- 1850 within the entire area disturbed, impacted or affected by surface coal mining and reclamation operations. The inspector shall collect evidence of any violation of the Federal Act, State Act or 62 Ill. Adm. Code 1700 through -- 1850 observed.
- c) The Department shall conduct periodic inspections of all coal

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

exploration operations required to comply with the Federal Act, the State Act, and 62 Ill. Adm. Code 1700 through -- 1950. The Inspector shall collect evidence of any violation of the Federal Act, State Act, or 62 Ill. Adm. Code 1700 through -- 1950 observed.

d) Aerial inspections.

- 1) Aerial inspections shall be conducted in a manner which reasonably ensures the identification and documentation of conditions at each surface coal mining and reclamation site inspected.
- 2) Any potential violation observed during an aerial inspection shall be investigated on site within three days; provided, that any indication of a condition, practice or violation constituting cause for the issuance of a cessation order under 62 Ill. Adm. Code 1813.11 shall be investigated on site immediately. An on-site investigation of a potential violation observed during an aerial inspection shall not be considered to be an additional partial or complete inspection for the purposes of subsections (a) and (b) of this Section.

e) The inspections required under subsections (a), (b), (c) and (d) of this Section shall:

- 1) Be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;
- 2) Occur without prior notice to the permittee or any agent or employee of such permittee, except for necessary on-site meetings; and
- 3) Include the prompt filing of inspection reports adequate to enforce the requirements of the Federal Act, State Act, and 62 Ill. Adm. Code 1700 through -- 1950.

f) For the purposes of Section 1817.11, an inactive surface coal mining and reclamation operation is one for which:

- 1) The Department has secured from the permittee the written notice provided for under 62 Ill. Adm. Code 1816.131(b) or 1817.131(b); or
- 2) Reclamation Phase II as defined at 62 Ill. Adm. Code 1800.40 has been completed and the liability of the permittee has been reduced by the Department in accordance with the State program.

g) Abandoned site means a surface coal mining and reclamation operation for which the Department has found in writing that:

- 1) All surface and underground coal mining and reclamation activities at the site have ceased;
- 2) The Department has issued at least one notice of violation or the initial program ceasing, and either:
 - A) Is unable to serve the notice despite diligent efforts to do so; or
 - B) The notice was served and has progressed to a failure-to-abate cessation order or the initial program equivalent;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

3) The Department:

- A) Is taking action to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and
- B) Is taking action pursuant to Sections 8.04(e), 8.04(f), 8.06(d) or 8.08 of the State Act [25 ILCS 720.8.04(e), 8.04(f), 8.06(d), 8.08] to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and
- 4) Where the site is, or was, permitted and bonded:
 - A) The permit has either expired or been revoked; and
 - B) The Department has initiated and is diligently pursuing forfeiture of, or has forfeited, any available performance bond.

b) In lieu of the inspection frequency established in subsections (a) and (b) of this Section, the Department shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.

- 1) In selecting an alternate inspection frequency authorized under this subsection, the Department shall first conduct a complete inspection of the abandoned site and provide public notice and the opportunity to comment under subsection (h)(2) below. Following the inspection and public notice, the Department shall prepare and maintain for public review a written finding justifying the alternate inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

- A) How the site meets each of the criteria under the definition of an abandoned site under subsection (q) above and thereby qualifies for a reduction in inspection frequency?
- B) Whether, and to what extent, there exists on the site impoundments, earthen structures or other conditions that pose, or may reasonably be expected to ripen into, imminent dangers to the health or safety of the public or significant environmental harm to land, air or water resources?
- C) The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit?
- D) The degree to which erosion and sediment control is present and functioning?
- E) The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

and other public or commercial buildings and facilities:

F) The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with them; and

G) Based on a review of the complete and partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.

2) The public notice and opportunity to comment required under subsection (h)(1) above shall be provided as follows:

A) The Department shall place a notice in a local newspaper of general circulation in the locality of the abandoned site providing the public with a 30-day period in which to submit written comments.

B) The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the bond status of the permit, the telephone number and address of the Department where written comments on the reduced inspection frequency may be submitted and the closing date of the comment period.

(Source: Amended at 20 Ill. Reg. 1949, effective

JAN 19 1996

Section 1840.17 Review of Decision Not to Inspect or Enforce

a) Any person who is or may be adversely affected by a coal exploration operation or surface coal mining and reclamation operation may ask the Director or his or her designee to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for State inspection under Section 1840.15. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review. The request for review must be submitted within thirty (30) days from the date the citizen is notified of the authorized representative's decision. Failure to file a request for informal review within this thirty (30) day time period shall result in a waiver of the right to such review.

b) The Director or his or her designee Supervisor-of-the-Band-Reclamation Division shall conduct the review and inform the person, in writing, of the results of the review within thirty (30) days of his or her receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

name of the citizen shall not be disclosed unless confidentiality has been waived or disclosure is required under State law.

c) Informal review under this Section shall not affect any right to formal review under Section 8.07 of the State Act 62 Ill. Adm. Code 1847.3 or to a citizen's suit under Section 8.05 of the State Act 1225 ILCS 720/8.051.

(Source: Amended at 20 Ill. Reg. 1949, effective

JAN 19 1996

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General
- 2) Code Citation: 62 Ill. Adm. Code 1700
- 3) Section Numbers: Amended Section
- 1700.11 Amend
- 1700.16 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this notice contain an amendment to a regulation? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Administrative Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1492 - February 17, 1995
- 10) Has JCAR issued a Statement of Comments to these rules? No
- 11) Differences between proposed and final version:
 - a) In the Chapter heading, the "Department of Mines and Minerals" has been changed to "Department of Natural Resources"; the Ill. Reg. Stat. cite in the Authority note have been stricken.
 - b) In Section 1700.11(a), "1700-1850" has been changed to "1700 through 1850".
 - c) In Section 1700.11(a)(1), "two hundred and fifty" and the parentheses around "250" have been stricken.
 - d) In Section 1700.11(a)(4), "(" has been added before the word "Section"; the parenthesis in front of "Ill." has been stricken; and the cite "225 ILCS 720.1.06(d)" has been changed to "[225 ILCS 720.1.06(d)]".
 - e) In Section 1700.11(b), "Illinois Department of Mines and Minerals" has been changed to "Illinois Department of Natural Resources, Office of Mines and Minerals."
 - f) In Section 1700.11(c), the parenthesis in front of "Ill." has been stricken.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- g) In Section 1700.11(c), the cite "225 ILCS 720" has been changed to read "7 [225 ILCS 720]."
- h) In Section 1700.11(f)(1)(A) and (B), a comma has been inserted after "that".
- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): P.A. 88-599 amends the Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS 720/9.07, to require that fees collected by the Department be deposited in the Coal Mining Regulatory Fund, rather than the General Revenue Fund. This rulemaking implements this statutory change, as well as changes to federal counterpart rules at 30 CFR 700.11.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
DEPARTMENT OF MINES AND METALS

PART 1700
GENERAL

Section

- 1700.11 Applicability
- 1700.12 Petitions to Initiate Rulemaking
- 1700.13 Notice of Citizen Suits
- 1700.14 Availability of Records
- 1700.15 Computation of Time
- 1700.16 Fees and Forfeitures
- 1700.17 Administration
- 1700.18 Advisory Council on Reclamation

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9347; amended at 11 Ill. Reg. 8051, effective July 1, 1987; amended at 14 Ill. Reg. 11795, effective January 1, 1991; amended at 15 Ill. Reg. 17136, effective January 1, 1992; amended at 20 Ill. Reg. **1956**, effective **JAN 19 1996**.

Section 1700.11 Applicability

- a) The requirements of 62 Ill. Adm. Code 1700 through 1850 ~~1799-1850~~ apply to all coal exploration and surface coal mining and reclamation operations, except:
 - 1) The extraction of coal by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by him or her where ~~two-hundred-and-fifty~~ 250+ tons or less of coal are removed in any twelve (12) consecutive months. Noncommercial use does not include the extraction of coal by one (1) unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;
 - 2) The extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the total mineral tonnage mined for purposes of commercial use or sale in accordance with 62 Ill. Adm. Code 1702;
 - 3) Coal exploration on lands subject to the requirements of 43 CFR 3480-3487 (~~1989~~ 1994); and
 - 4) The extraction of coal on Federal lands except to the extent provided under a cooperative agreement with the United States.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

[Section 1.06 of the Surface Coal Mining Land Conservation and Reclamation Act ~~111--Rev--Stat--1989--ch--96-1-27--part 799-196(d)~~ [225 ILCS 720/1.06(d)].]

- b) The Illinois Department of Natural Resources, Office of the Department of Mines and Minerals (Department) shall, within sixty (60) days after of a request from any person who intends to conduct surface coal mining operations, make a written determination whether the operation is exempt under subsection (a). The Department shall, within thirty (30) days after of receipt of a request for exemption under subsection (a), publish notice of the request in a newspaper of general circulation in the area of the proposed exempted operation and send the request to interagency members. Prior to the time a determination is made, any person may submit, and the Department shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who has made a complete and accurate request for an exemption and relied upon the determination shall not be cited for violations which occurred prior to the date of the reversal.
- c) The requirements of 62 Ill. Adm. Code 1800 through 1850 (the permanent program regulations) apply to all surface coal mining and reclamation operations for which the surface coal mining operation is required to obtain a permit under the Surface Coal Mining Land Conservation and Reclamation Act (the State Act) ~~111--Rev--Stat--1989--ch--96-1-27 part--799-196-1-27~~ [225 ILCS 720] on and after February 1, 1988.
- d) Existing structures
 - 1) Each structure used in connection with a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of the permanent program regulations except that:
 - A) The Department shall exempt an existing structure which meets the performance standards of the permanent program regulations but does not meet the design requirements of the permanent program regulations from meeting those design requirements. The Department shall grant this exemption as part of the permit application process after both obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6); and
 - B) If a performance standard in 62 Ill. Adm. Code 280 (interim program regulations) is at least as stringent as the comparable performance standard of the permanent program regulations, an existing structure which meets the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Performance standards of the interim program regulations shall be applied by the Department from meeting the design requirements to the permanent program regulations. The Department will grant this exemption as part of the permit application process after obtaining the information 62 Ill. Adm. Code 1780.12 or 1780.13 require and after the Department makes the findings required in 62 Ill. Adm. Code 1780.12.

3) The exemptions provided in subsections (3)(b)(A) and (d)(1)(B) shall not apply to:

A) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and

B) The requirements to restore the approximate original contour of the land.

4) The permittee shall modify or reconstruct an existing structure which is a performance standard of the interim program regulations when it is incompatible with the permanent program regulations to meet the design standard of the permanent program regulations, pursuant to 62 Ill. Adm. Code 1773.15(c)(6), 1780.12 and 1780.13.

4) The permittee shall modify or reconstruct an existing structure which does not meet the performance standards of the interim program regulations and which the applicant proposes to use in connection with a coal exploration or surface coal mining and reclamation operation to meet the design standards of the permanent program regulations prior to issuance of the permit.

e) Effective dates

1) Any person conducting coal exploration on or after February 1, 1983, shall either file a notice of intention to explore or obtain approval of the Department, as required by 62 Ill. Adm. Code 1772.

2) Coal exploration performance standards in 62 Ill. Adm. Code 1815 apply after August 3, 1982.

f) Termination of jurisdiction

1) The Department may terminate its jurisdiction under the Interim Regulations when the reclamation of a completed surface coal mining and reclamation operation is incrementally completed.

A) The Department determines in writing that under the initial program, all requirements imposed under 62 Ill. Adm. Code 1820 have been successfully completed.

B) The Department determines in writing that under the permanent program, all requirements imposed under the interim program have been successfully completed, where a performance bond was required, the Department has made a final decision in accordance with 62 Ill. Adm. Code 1814.4, to release the performance bond fully.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

2) Following a termination under subsection (f)(1) above, the Department shall reassess jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (f)(1) above was based upon fraud, collusion or misrepresentation of a material fact.

(Source: Amended at 20 Ill. Reg. 1956, effective JAN 19 1996)

Section 1700.16 Fees and Forfeitures

a) All fees collected under the provision of the State Act shall be deposited in the Coal Mining Regulatory Fund general revenue fund in the State Treasury.

b) All forfeitures collected under the provision of the State Act shall be deposited in the reclamation fund to be used for the purposes for which the bond was issued. Any forfeited funds remaining after the completion of reclamation as required by the permit and the State Act and regulations shall be returned to the party from whom the funds were collected.

(Source: Amended at 20 Ill. Reg. 1956, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Definitions
- 2) Code Citation: 62 Ill. Adm. Code 1701.Appendix A
- 3) Section Numbers Adopted Action
1701.Appendix A Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1498 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
In Section 1701.Appendix A, all "1700 - 1850" have been changed to "1700 through 1850"; all Ill. Rev. Stat. cites have been stricken.
In the definition of "Department", change "Illinois Department of Mines and Minerals" to "Illinois Department of Natural Resources, Office of Mines and Minerals".
In the definitions of "Director", after the word "Department", add "of Natural Resources".
In the definition of "Regulatory program", change the CFR citation from "1991" to "1994".
- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect?
No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): The amendments update and clarify the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

definitions so that the Department may more effectively fulfill Illinois' responsibilities under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] as well as make the rules more consistent with counterpart Federal regulations.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1701

GENERAL DEFINITIONS

Section

1701.5 Definitions

APPENDIX A Definitions

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4932; amended at 11 Ill. Reg. 8075, effective July 1, 1987; amended at 14 Ill. Reg. 11800, effective January 1, 1991; amended at 15 Ill. Reg. 17141, effective January 1, 1992; amended at 17 Ill. Reg. 10947, effective July 1, 1993; amended at 20 Ill. Reg. 1962, effective JAN 19 1996.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1701.APPENDIX A Definitions

As used in 62 Ill. Adm. Code 1700 through 1850 #700---1850, the following terms have the specified meanings, except when another meaning is given:

"Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

"Acid - forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weather processes, form acids that may create acid drainage.

"Act or Federal Act" means the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87. (30 U.S.C. 1201 et seq.).

"Adjacent area" means the area located outside the permit area, or shadow area, where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations.

"Administratively complete application" means an application for permit approval or approval for coal exploration where required, which the Department determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

"Affected area" means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: any water or surface land upon which those activities are conducted or located.

"Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

"Applicant" means any person seeking a permit; permit revision; renewal; or transfer, assignment or sale from the Department to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

"Applicant Violator System or AVS" means the computer system maintained by DNR to identify ownership or control links involving permit applicants, permittees, and persons cited in violation notices.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Application" means the documents and other information filed with the Department under these regulations for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit rights for surface coal mining and reclamation operations or, where required, for coal exploration.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, and spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the Department has determined that they comply with 62 Ill. Adm. Code 1816.49 and 1816.56, 1816.133 or 1817.49, 1817.56 and 1817.133. Section 1.03(a)(2) of the Surface Coal Mining Land Conservation and Reclamation Act (411--Rev--Stat--1997--ent--36--1727 par--9991-9301a)††† (225 ILCS 720/1.03(a)(2)).

"Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for specific use.

"Article" means an article of the State Act.

"Auger mining" means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the cliff or highwall and transporting the coal along an auger bit to the surface.

"Best technology currently available" means equipment, devices, systems, methods, or techniques which will prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by 62 Ill. Adm. Code 1816.42; and minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Department, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 62 Ill. Adm. Code 1816 and 1817.

"Boxcut" means the first open cut resulting in the placing of overburden on unmined land adjacent to the initial pit.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Cemetery" means any area of land where human bodies are interred.

"Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-84 found at pp. 247-252 in Vol 5.05 of the Annual Book of ASTM Standards published by the American Society for Testing and Materials, 1915 Race St., Philadelphia PA 19103.

"Coal exploration" means the field gathering of: surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of 62 Ill. Adm. Code 1700 through 1850 †996---1957.

"Coal mine waste" means coal processing waste and underground development waste.

"Coal mining operation" means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the area upon which such activities occur.

"Coal processing or coal preparation" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

"Coal preparation plant" means a facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. It includes facilities associated with coal preparation activities including, but not limited to the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas.

"Coal processing waste" means earth materials which are separated and wasted from the product coal during cleaning, concentrating, or other processing or preparation of coal.

"Combustible material" means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

"Community or institutional building" means any structure, other than

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

a public building or an occupied dwelling, which is used primarily for functions of community groups; used for an educational, cultural, historic, religious, scientific, correctional, mental-health or physical-health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

"Compaction" means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

"Complete and accurate application" means an application for permit approval or approval for coal exploration where required, which the Department determines contains all information which the State Act and 62 Ill. Adm. Code 1700 - 1850 require.

"Consolidated material" means materials of sufficient hardness or stability to resist weathering so as to inhibit erosion or sloughing.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

"Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

- the proposed operation;
- all existing operations;
- any operation for which a permit application has been submitted to the Department.

"Darkened surface soil" means mineral horizons formed at or adjacent to the surface of the soil which are higher in organic matter content, and visibly darker in color than the immediately underlying horizons.

"Department" means the Illinois Department of Natural Resources, Office of Mines and Minerals, or its successor.

"Direct financial interest" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property, and other financial

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

relationships.

"Director" means the Director of the Department of Natural Resources.

"Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by 62 Ill. Adm. Code 1800 is released.

"Diversion" means a channel, embankment, or other man-made structure constructed to divert water from one area to another.

"Downslope" means the land surface between the projected outcrop of the lowest coalbed being mined along each highway and a valley floor.

"Embankment" means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

"Employee" means

- any person employed by the Department who performs any function or duty under the Act; and
- advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decision-making functions for the Department under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

"Ephemeral stream" means a stream which meets both requirements:

- It flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice; and
- It has a channel bottom that is always above the local water table.

"Excess spoil" means spoil material disposed of in a location other than the mined-out area; provided, the spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in accordance with 62 Ill. Adm. Code 1816.102(d) and 1817.102(d) in nonsteep slope areas shall not be considered excess spoil.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Existing structure" means a structure used in connection with surface coal mining and reclamation operations for which construction began prior to June 1, 1982.

"Federal Director" means the Director of the Federal Office of Surface Mining Reclamation and Enforcement.

"Federal violation notice" means a violation notice issued by OSM or by another agency or instrumentality of the United States.

"Final cut" means the last pit created in a surface-mined area.

"Fragile lands" means geographic areas containing important natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 7.01 of the State Act ~~441r-Rev-Stat--1991r~~ ~~44r-36-1/2-par--1997-91t~~ [225 ILCS 720/7.01] and 62 Ill. Adm. Code 1761.11, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

"Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation, it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

"Gravity discharge" means, with respect to underground mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs as a result of flooding a mine to the level of the discharge is not gravity discharge.

"Ground cover" means the area of ground covered by the combined aboveground parts of vegetation and by the litter that is produced naturally on site.

"Ground water" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Head-of-hollow fill" means a fill structure consisting of any material, other than organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty (20) degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten (10) degrees. In head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

"High capability land" means land not meeting the definition of prime farmland or land exempted in accordance with 62 Ill. Adm. Code 1785.17 where the Department determines the following three facts are present together:

The land is capable of being reclaimed for row-crop agricultural purposes;

The land is suitable for row-crop agricultural purposes based on United States Soil Conservation Service soil survey classifications of the affected land prior to mining (all soil types in capability Classes I, II, III and those soil types in capability Class IV with slopes of five (5) percent or less), as set forth in Land-Capability Classification, Agriculture Handbook No. 210, published by the U.S. Department of Agriculture, Soil Conservation Service in 1973; and

The optimum future use of the land is for row-crop agricultural purposes.

"Highwall" means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

"Highwall remnant" means that portion of highwall that remains after backfilling and grading of a remining permit area.

"Higher or better uses" means post-mining land uses that have a higher economic value or nonmonetary benefit to the landowner or the community than the premining land uses.

"Historically used for cropland" means:

Lands that have been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the acquisition, including purchase, lease, or option, of the lands for the purpose of conducting or allowing through resale, lease or option, the conduct of surface coal mining and reclamation operations;

Lands that the Department determines, on the basis of additional cropland history of the surrounding lands and the lands under

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

consideration that the permit area is clearly cropland but falls outside the specific five (5)-year-in-ten (10) criterion, in which case the regulations for prime farmland shall be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

Lands that would likely have been used as cropland for any five (5) out of the last ten (10) years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

"Historic lands" means, for purposes of implementing 62 Ill. Adm. Code 1.62 and 1.64, important historic, cultural, and scientific areas that could be damaged or be destroyed by surface coal mining operations. Examples of historic lands include archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of the State Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement. Section 1.03(a)(7) of the Surface Coal Mining Land Conservation and Reclamation Act (43 Ill. Rev. Stat. 1991--ch. 96 1/2, par. 736i-93a(7)) [225 ILCS 720/1.03(a)(7)].

"Impounding structure" means a dam, embankment, or other structure used to impound water, slurry, or other liquid or semi-liquid

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

material.

"Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

"Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's duties and the coal mining operation in which the spouse, minor children, or other resident relatives hold a financial interest.

"In situ processes" means activities conducted in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

"Institute" means the Department of Energy and Natural Resources or such other agency as designated by the Director in accordance with Section 7.03 of the State Act.

"Interagency Committee" means the Interagency Committee on Surface Mining Control and Reclamation Section 1.05 of the State Act created.

"Intermittent stream" means:

- A stream or reach of a stream that drains a watershed of at least one (1) square mile; or
- A stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

"Irreparable damage to the environment" means any damage to the environment in violation of the State Act or these regulations that cannot be corrected by actions of the applicant.

"Land capability" means the soils' premining capabilities based on the United States Department of Agriculture, Soil Conservation Service classification system as found in Agriculture Handbook No. 210, Land-Capability Classification, (published in 1973) as interpreted from the soils map for sustained production of commonly cultivated crops or for the production of permanent vegetation.

"Land eligible for reining" means those lands that would otherwise be eligible for expenditures under Section 402(g)(4) of Section 401 of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

motel, stores, restaurants, and other commercial establishments.

including developed recreation facilities such as parks, camps and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other under-served recreational uses. Allowable support facilities include water impoundments, access roads, and other incidental facilities related to the recreational development of the area.

Allowable support facilities include water impoundments, access lanes, erosion control structures such as grassed waterways, ditches, ponds, terraces and sediment ponds, and other incidental facilities, including sediment ponds, fish and wildlife management practices.

"undeveloped land or no current use or land management" includes land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession. A post-mining designation of undeveloped land shall not be allowed for any land which is proposed to be affected by the mining operation.

"Mining operations or surface coal mining operations" means both surface mining operations and underground mining operations. Section 1.03(a)(1) of the Surface Coal Mining Land Conservation and Reclamation Act (44 Stat. 1545, 1930; 30 U.S.C. 1201-1225) (11).

"Moist bulk density" means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (1/3 bar moisture tension). Weight is determined after drying the soil at one hundred and five degrees (105°C).

drying the soil at one hundred and five degrees (105° C).

States Department of Labor.

"Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Natural hazard lands" means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

"Noxious plants" means any plant species listed as a "noxious weed" under regulations authorized by the Illinois Noxious Weed Law (411 Rev.-Stat.-1917-ch-57-pars.-951-et-seq.) (505 ILCS 100); any plant species whose seed is listed as a "prohibited (primary) noxious weed" or "restricted" (secondary) noxious weed" or "weed seeds" under regulations authorized by the Illinois Seed Law (411 Rev.-Stat.-1917-ch-57-pars.-431-et-seq.) (505 ILCS 110/1); or any plant which the Department of Agriculture has declared a pest under the Illinois Pesticide Act (411 Rev.-Stat.-1917-ch-57-pars.-801-et-seq.) (415 ILCS 601).

"Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

"Office" means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

"Operator" means any person engaged in coal mining who removes or intends to remove more than two hundred and fifty (250) tons of coal from the earth or from coal refuse piles by mining within twelve (12) consecutive calendar months in any one location.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Ownership or control link" means any relationship included in the definition of owned or controlled or owns or controls at 62 Ill. Adm. Code 1773.5(a) and (b) or in the violations review provisions of 62 Ill. Adm. Code 1773.15(b). It includes any relationship presumed to constitute ownership or control under the definition of "owned or controlled" or "owns or controls" unless such presumption has been successfully rebutted under the provisions of 62 Ill. Adm. Code 1773.24 and 1773.25.

"Perennial stream" means a stream that flows continuously during all of the calendar year or part of a stream that flows continuously during all of the calendar year. The stream or part of a stream flows

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

continuously as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

"Performance bond" means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1850 1700-1859, and the requirements of the permit and reclamation plan.

"Performing any function or duty under this Act" means those decisions or actions, which if an employee performed or did not perform would affect the programs under the State Act.

"Permanent diversion" means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Department and other appropriate State and Federal agencies.

"Permanent impoundment" means an impoundment which the Department approved and, if required, is approved by other State and Federal agencies for retention as part of the post-mining land use.

"Permit" means a permit to conduct surface coal mining and reclamation operations which the Department issues pursuant to the State program.

"Permit area" means the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Department. This area shall include all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit indicated on the approved map which the operator submitted with the operator's application and which is required to be bonded under 62 Ill. Adm. Code 1800 and where the operator proposes to conduct surface coal mining and reclamation operations under the permit, including all disturbed areas; provided, that areas adequately bonded under another valid permit may be excluded from a permit area. The permit area excludes the area defined in these regulations as the shadow area.

"Permit term" means the period during which the permittee may engage in mining and reclamation operations under the permit. Section 1.03(a)(18) of the Surface Coal Mining Land Conservation and Reclamation Act (411 Rev.-Stat.-1917-ch-57-pars.-991-et-seq.) (505 ILCS 720.1.03(a)(18)).

"Permittee" means a person holding or required by the State Act or these regulations to hold a permit to conduct surface coal mining and reclamation operations issued by a Department pursuant to a State program.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Person" means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, general partnership, limited partnership, business trust association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization or any agency, unit, or instrumentality of Federal, State or local government including any publicly-owned utility or publicly-owned corporation of Federal, State or local government.

"Person having an interest which is or may be adversely affected" or "Person with a valid legal interest" shall include any person:

Who uses any resources of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department; or
Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department.

"Placeland" means undisturbed land before any mining activity.

"Precipitation event" means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, precipitation event also includes that quantity of water emanating from snow cover as snow-melt in a limited period of time.

"Previously mined area" means land that had been mined before August 3, 1977.

"Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (43 Fed. Reg. 4031 (1978)) and which have historically been used for cropland as that phrase is defined above.

"Principal shareholder" means any person who is the record or beneficial owner of ten (10) percent or more of any class of voting stock.

"Prohibited financial interest" means any direct or indirect financial interest in any coal mining operation.

"Property to be mined" means both the surface and mineral estates within the permit area and the mineral estate within the shadow area.

"Public building" means any structure that is owned or leased and principally used by a public government agency for public business or meetings.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Public office" means a facility under the control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

"Public park" means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved or held open to the public because of that use.

"Publicly-owned park" means a public park that is owned by a Federal, State or local governmental entity.

"Public road" means a road:

which has been designated as a public road pursuant to the law of the jurisdiction in which it is located;
which is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction;
for which there is substantial (more than incidental) public use; and

which meets road construction standards for other public roads of the same classification in the local jurisdiction.

"Qualified registered professional engineer" means a civil engineer, mining engineer, environmental engineer or general engineer meeting the requirements of Section 9 of The Illinois Professional Engineering Act (Ill. Rev. Stat. 1993, ch. 117, par. 5112) (225 ILCS 325/12).

"Rangeland" means land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannas, such as prairies, and juniper savannas, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

"Reasonably available spoil" means spoil and suitable coal mine waste material generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

"Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

"Reclamation" means those actions which these regulations require to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

restore mined land to a post-mining land use which the Department has approved. These actions do not include subsidence control measures conducted in the shadow area to restore damaged land to pre-mining capability.

"Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the ten (10)-year, twenty-four (24)-hour precipitation event would be that twenty-four (24)-hour precipitation event expected to occur on the average once in ten (10) years.

"Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by Department-approved crop production methods. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

"Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

"Regional director" means Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement or Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement's representative.

"Regulatory program" means Illinois' permanent regulatory program which the Office of Surface Mining Reclamation and Enforcement approved and set forth in 30 CFR 913.1-913.16 (1994) (1997). 30 CFR 913.1-913.16 do not include any subsequent amendments or editions.

"Remining" means conducting surface coal mining and reclamation operations which affect previously mined areas.

"Renewable resource lands" means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

"Responsible land management" means that combination of preparation, maintenance, fertilization and tilling of land capable of producing row crops which would be practiced by a person in the business of producing row crops on unmined land in the same region on the same, or similar, soil type as the mined land being managed, which practices can reasonably be expected to continue after mining and reclamation are completed, as determined by the Department.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces.

"Secretary" means the Secretary of the Interior or the Secretary's representative.

"Sedimentation pond" means an impoundment used to remove solids from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

"Shadow area" means any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the State Act that may be adversely impacted by underground mining operations including impacts of subsidence.

"Significant forest cover" means an area where the plant community consists predominantly of trees and other woody vegetation.

"Significant, imminent environmental harm to land, air or water resources" means:

An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life;

An environmental harm is imminent if a condition, practice, or violation exists which:

Is causing such harm; or

May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 8.06(c) of the State Act. (111-Rev-Stat-1991-96-1-27-Par. 7999-86(c)) (225 ILCS 720/8.06(c)).

An environmental harm is significant if that harm is appreciable and not immediately repairable.

"Siltation structure" means a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

meet applicable effluent standards.

"Slope" means average inclination of a surface measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v: 5h). It may also be expressed as a percent or in degrees.

"Soil horizons" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four (4) master soil horizons are:

A horizon. The uppermost mineral layer, often called the surface soil or topsoil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

E horizon. The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon.

An E horizon is most commonly differentiated from the underlying B horizon in the same sequence by color of higher value or lower chroma, by coarser texture, or by a combination of these properties.

B horizon. The layer that typically is immediately beneath the A and E horizons and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons.

C horizon. The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

"Soil survey" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 62 Ill. Adm. Code 1785.17(c)(1).

"Spoil" means overburden that has been removed during surface coal mining operations.

"Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

"State Act" means the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991r-ch. 96-1/2, pars. 7901-91-9).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

seq. 225 ILCS 720).

"State regulatory program" means the Illinois program which the Secretary approved on June 1, 1982 pursuant to 30 CFR 732.1 through 732.15.

"State violation notice" means a violation notice issued by a state regulatory authority or by another agency or instrumentality of State government.

"Steep slope" means any slope of more than twenty (20) degrees or such lesser slope as the Department may designate after consideration of such regional characteristics as soil and climate.

"Substantially disturb" means, for purposes of coal exploration, to impact significantly upon land, air or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

"Substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or of the right to mine it without an existing mine alone, as described in the above example, are not sufficient to constitute substantial legal and financial commitments.

"Successor in interest" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

"Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over the coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

"Surface coal mining and reclamation operations", or "mining and reclamation operations", means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Surface coal mining operations", or "mining operations" means:

Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of Section 516 of the Federal Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce, or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine-site; provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed sixteen and two-thirds (16 2/3) per centum of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Federal Act; and provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

The areas upon which the activities described in the first paragraph of this definition occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

"Surface mining operations" means activities conducted on the surface of lands in connection with a surface coal mine or surface operations. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, coal recovery from coal waste disposal areas, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; and the areas on which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. Section 1.03(a)(24) of the Surface Coal Mining Land Conservation and Reclamation Act (40 CFR 1.03(a)(24)) (225 ILCS 720/1.03(a)(24)).

"Suspended solids or nonfilterable residue, expressed as milligrams per liter", means any materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR 136).

"Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Temporary impoundment" means an impoundment which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Ton" means two thousand (2000) pounds avoirdupois (.90718 metric ton).

"Topsoil" means the A and E soil horizon layers of the four (4) master soil horizons.

"Toxic - forming materials" means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to living organisms or uses of water.

"Toxic mine drainage" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill or injure, or impair living organisms commonly present in the area that might be exposed to it.

"Transfer, assignment or sale of permit rights" means a change in ownership or other effective control over the right to conduct surface

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

coal mining operations under a permit which the Department issued.

"Underground development waste" means waste rock mixtures resulting from development of areas for underground mining activities.

"Underground mining activities" means a combination of:

Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

Underground operations such as underground construction, operation, and reclamation of shafts, edits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

"Underground mining operations" means the underground excavation of coal; and

surface operations incident to the underground extraction of coal, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas on which are sited support facilities including hoist and ventilation ducts, areas used for the storage and disposal of waste, and areas on which materials incident to underground mining operations are placed; and underground operations incident to underground excavation of coal, such as underground construction, operation, and reclamation of shafts, edits, underground support facilities, in situ processing, and underground mining, hauling, storage, or blasting. Section 1.03(a)(26) of the Surface Coal Mining Land Conservation and Reclamation Act (415 Rev. Stat. 1991-1-1-96 1-27-par. 9901-03(a)(26)) [225 ILCS 720/1.03(a)(26)].

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the operator's permit or any requirement of the State Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit of the State due to indifference, lack of diligence, or lack of reasonable care. Section 1.03(a)(27) of the Surface Coal Mining Land Conservation and Reclamation Act (415 Rev. Stat. 1991-1-1-96 1-27-par. 9901-03(a)(27)) [225 ILCS 720/1.03(a)(27)].

"Valid existing rights" means:

Except for haul roads, that a person possesses valid existing

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

rights for an area protected under Section 7.01 of the State Act (415 Rev. Stat. 1991-1-1-96 1-27-par. 9907-01) [225 ILCS 720/7.01] on August 3, 1977, if the application of any of the prohibitions contained in that Section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Section 15 of the Illinois Constitution of 1970 or both.

For haul roads:

A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or at the time of the designation of an area, as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of the coming into existence, within the prohibited distance of a structure, road, cemetery, or other activity listed in Section 7.01 of the State Act; or

Any other road in existence as of August 3, 1977, or at the time of the designation of an area as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of coming into existence, within the prohibited distance of a structure, road, cemetery or other activity listed in Section 7.01 of the State Act.

Where an area comes under the protection of Section 7.01 of the State Act after August 3, 1977, valid existing right shall be found if:

On the date the protection comes into existence, a validly authorized surface coal mine operation exists on that area; or

The prohibition caused by Section 7.01 of the State Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Section 15 of Illinois Constitution of 1970, or both.

Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Illinois case law concerning interpretation of documents conveying mineral rights or, where Illinois case law is lacking, upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"valley fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than twenty (20) degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten (10) degrees.

"Violation notice" means any written notification, by letter, memorandum, legal or administrative pleading, or other written communication, from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any federal regulation promulgated pursuant thereto; a State program; or any federal or state law or regulation pertaining to air or water, environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

"Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

"Wetland" means land that has a predominance of hydric soils (soils which are usually wet and where there is little or no free oxygen) and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (plants typically found in wet habitats) typically adapted for life in saturated soil conditions. Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present.

"Willful violation" means a deliberate act or omission which violates the State Act, these regulations, or any permit condition which the State Act requires.

(Source: Amended at 20 Ill. Reg. 1962, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Rules Relating to Procedure and Practice
- 2) Code Citation: 62 Ill. Adm. Code 1848
- 3) Section Numbers
1848.5
Adopted Action
Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1526 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources". All Ill. Rev. Stat. cites have been stricken.

In the Source note, the Ill. Reg. cite "11095" has been corrected to "10973".

In Section 1848.5(e), the period has been changed to a semi-colon; in subsection (f), the last sentence starting with the word "Any" has been deleted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): Public Act 88-63 was enacted on July 7, 1999, amending Section 2.11 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/2.11]. This statutory amendment requires that notices of permit hearings be published in accordance with

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the specification set forth therein. Section 1848.5 contains requirements for notices of hearing. Proposed new subsection (f) implements the 1993 amendment to Section 2.11 of the State Act.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62761-1787
(217) 782-1309

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1848

GENERAL RULES RELATING TO PROCEDURE AND PRACTICE

Section	Scope and Purpose
1848.1	Documents
1848.2	Transcript of Hearings
1848.3	Notice of Hearing
1848.4	Ex Parte Contacts
1848.5	Pre-Hearing Conferences
1848.6	Intervention
1848.7	Discovery
1848.8	Expert Witnesses
1848.9	Motions
1848.10	Consolidation of Proceedings
1848.11	Rules of Evidence; Official Notice
1848.12	Powers of Hearing Officers
1848.13	Disqualification of Hearing Officer
1848.14	Postponement or Continuance of Hearing
1848.15	Failure to State a Claim
1848.16	Summary Decision
1848.17	Proposed Findings of Fact and Conclusions of Law
1848.18	Default

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10973, effective July 1, 1993; amended at 20 Ill. Reg. 1989, effective JAN 19 1996.

Section 1848.5 Notice of Hearing

The hearing officer shall give written notice of hearing to the parties. Such notice shall include:

- A statement of the time, place and nature of the hearing;
- A statement of the legal authority and jurisdiction under which the hearing is to be held;
- A reference to the particular section of the substantive and procedural statutes and rules involved;
- A short and plain statement of the matters asserted, the consequences of a failure to respond and the official file or other reference number or name;
- The names and mailing addresses of the hearing officer and all parties and other persons to whom notice of the hearing is given;
- Permit hearing notices. If the hearing concerns review of a permit

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

decision under 62 Ill. Adm. Code 1817.3, a notice containing the information set forth in subsections (a) and (b) above shall be published in a newspaper of general circulation published in each county in which any part of the area of the affected land is located. The notice shall appear no more than fourteen (14) days nor less than seven (7) days prior to the date of the hearing. The notice shall be no less than one eighth page in size, and the smallest type used shall be twelve point and shall be enclosed in a black border no less than 1/4 inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(Source: Amended at 20 Ill. Reg. 1989, effective
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permanent Program Performance Standards--Underground Mining Activities
- 2) Code Citation: 62 Ill. Adm. Code 1817
- 3) Section Numbers Adopted Action
- | | |
|----------|-------|
| 1817.13 | Amend |
| 1817.22 | Amend |
| 1817.41 | Amend |
| 1817.46 | Amend |
| 1817.97 | Amend |
| 1817.116 | Amend |
| 1817.117 | Amend |
| 1817.121 | Amend |
| 1817.131 | Amend |
| 1817.133 | Amend |
| 1817.151 | Amend |
| 1817.182 | Amend |
| 1817.190 | Amend |

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1569 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

All ILCS cites have been put in brackets.

In the Authority note, the "Ill. Rev. Stat." cite has been stricken.

In Section 1817.13, the proposed word "backfilled" has been deleted and stricken language has been reinstated; "Natural Resources, Office of" has been inserted between "of" and "mines".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

In Section 1817.15, the proposed word "backfilled" has been deleted and stricken language has been reinstated.

In Section 1817.46(c)(2)(C) has been stricken, language moved up to (ii); subsection (e), "the disturbed drainage area within the total disturbed area is small; and" has been added at the end of the first sentence and stricken as "(1)"; subsection (2)(A) is now subsection (1) and subsection (2)(B) is now subsection (2).

In Section 1817.97, the comma has been stricken after "amended".

In Section 1817.116(a)(2)(F), reinstate "Augmentation"; reinstate "(ii)" as "(i)" and change last word "above" to "below"; after the word "recommend" add "after deep tillage"; the last proposed paragraph has been renumbered to "(ii)"; after "wetland area" add ", except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used."

In Section 1817.116(a)(3)(F), the proposed language has been deleted and replaced with "Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period."

In Section 1817.116(a)(5), "criteria" has been deleted; in subsections (5)(A) and (B), the word "aerial" has been corrected to "areal".

In Section 1817.116, (c) has been deleted.

In Section 1817.117(a)(1), the parentheses around "90" have been stricken.

In Section 1817.117(c)(1), "(1.500)" has been stricken.

In Section 1817.117(c)(7), "or the Illinois Department of Conservation" has been stricken; and "conduct" has been replaced with "administer".

In Section 1817.133(c), "Soil" has been deleted and replaced with "Natural Resources".

In Section 1817.151(d), the period has been stricken and replaced with a semi-colon.

In Section 1817.182(d)(3)(B), "paragraph" has been stricken and replaced

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

with "subsection".

In Section 1816.190(c), "1771.23(e)(1)" has been stricken and replaced with "1779.25".

12) Have all changes agreed upon by JCPR and the agency been made as indicated in the agreement letter issued by JCPR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): The amendments update, streamline and clarify the rules so that the Department may more effectively fulfill Illinois' responsibilities under the Surface Coal Mining Land Conservation and Reclamation Act (State Act), 225 ILCS 720, as well as make the rules more consistent with federal counterpart rules. Revisions to the regulatory revegetation success provisions reflect recent statutory changes to Section 3.15 of the State Act, which was amended to change the responsibility period from five years to two years for areas eligible for re-mining. Other amendments are in response to the Federal Office of Surface Mining Reclamation and Enforcement's directive published at 58 Fed. Reg. 4850 (September 3, 1993), and statutory revisions to Section 720 of Surface Mining Control and Reclamation Act pursuant to the Energy Policy Act of 1992 regarding water supplies and subsidence.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1317

PERMANENT PROGRAM PERFORMANCE STANDARDS--

UNDERGROUND MINING OPERATIONS

Section	
1817.11	Signs and Markers
1817.13	Casing and Sealing of Exposed Underground Openings: General Requirements
1817.14	Casing and Sealing of Underground Openings: Temporary
1817.15	Casing and Sealing of Underground Openings: Permanent
1817.21	Topsoil: General Requirements (Repealed)
1817.22	Topsoil and Subsoil
1817.23	Topsoil: Storage (Repealed)
1817.24	Topsoil: Redistribution (Repealed)
1817.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1817.41	Hydrologic Balance Protection
1817.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1817.43	Diversions
1817.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1817.45	Hydrologic Balance: Sediment Control Measures
1817.46	Hydrologic Balance: Siltation Structures
1817.47	Hydrologic Balance: Discharge Structures
1817.48	Hydrologic Balance: Acid - Forming and Toxic - Forming Materials (Repealed)
1817.49	Impoundments
1817.50	Hydrologic Balance: Underground Mine Entry and Access Discharges (Repealed)
1817.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1817.53	Hydrologic Balance: Transfer of Wells (Repealed)
1817.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1817.56	Post - Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments and Treatment Facilities
1817.57	Hydrologic Balance: Stream Buffer Zones
1817.59	Coal Recovery
1817.61	Use of Explosives: General Requirements
1817.62	Use of Explosives: Pre - Blasting Survey
1817.64	Use of Explosives: General Performance Standards
1817.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1817.66	Use of Explosives: Blasting Signs, Warnings, and Access Control
1817.67	Use of Explosives: Control of Adverse Effects
1817.68	Use of Explosives: Records of Blasting Operations
1817.71	Disposal of Excess Spoil: General Requirements
1817.72	Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1817.73

Disposal of Underground Development Waste and Excess Spoil: Head-of-Hollow Fills (Repealed)

1817.74

Disposal of Excess Spoil: Durable Rock Pills

1817.75

Disposal of Excess Spoil: Preexisting Branches

1817.81

Coal Mine Waste: General Requirements

1817.82

Coal Processing Waste Banks: Site Inspection (Repealed)

1817.83

Coal Mine Waste: Refuse Piles

1817.84

Coal Mine Waste: Impounding Structures

1817.85

Coal Processing Waste Banks: Construction Requirements (Repealed)

1817.86

Coal Processing Waste: Burning (Repealed)

1817.87

Coal Mine Waste: Burning and Burned Waste Utilization

1817.88

Coal Processing Waste: Return to Underground Workings (Repealed)

1817.89

Disposal of Noncoal Mine Wastes

1817.91

Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)

1817.92

Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)

1817.93

Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)

1817.94

Coal Processing Waste: Time Requirement for Completion of Covering (Repealed)

1817.95

Stabilization of Surface Areas

1817.97

Protection of Fish, Wildlife and Related Environmental Values

1817.99

Slides and Other Damage

1817.100

Contaminant Reclamation and Subsidence Control

1817.101

Backfilling and Grading: General Requirements

1817.102

Backfilling and Grading: General Grading Requirements

1817.103

Backfilling and Grading: Covering Coal and Acid- and Toxic-forming Materials (Repealed)

1817.106

Backfilling and Grading: Previously Mined Areas

1817.107

Backfilling and Grading: Steep Slopes

1817.111

Revegetation: General Requirements

1817.112

Revegetation: Use of Introduced Species (Repealed)

1817.113

Revegetation: Timing

1817.114

Revegetation: Mulching and Other Soil Stabilization Practices

1817.115

Revegetation: Grading (Repealed)

1817.116

Revegetation: Standards for Success

1817.117

Revegetation: Tree and Shrub Vegetation

1817.121

Subsidence Control

1817.122

Subsidence Control: Public Notice

1817.124

Subsidence Control: Surface Owner Protections (Repealed)

1817.126

Subsidence Control: Buffer Zones (Repealed)

1817.131

Cessation of Operations: Temporary

1817.132

Cessation of Operations: Permanent

1817.133

Post-Mining Land Capability

1817.150

Roads: General

1817.151

Primary Roads

1817.180

Utility Installations

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1817.191 Support Facilities
 1817.192 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area
 1817.190 Affected Acreage Map

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [25 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 923, amended at 9 Ill. Reg. 13315, effective October 10, 1985; amended at 10 Ill. Reg. 9606, effective July 1, 1986; amended at 11 Ill. Reg. 3253, effective July 1, 1987; amended at 14 Ill. Reg. 11855, effective January 1, 1991; amended at 15 Ill. Reg. 17239, effective January 1, 1992; amended at 16 Ill. Reg. 11031, effective July 1, 1993; amended at 19 Ill. Reg. **1993**, effective **JAN 19 1996**.

Section 1817.13 Casing and Sealing of Exposed Underground Openings: General Requirements

Each exploration hole, other drillhole or borehole, shaft, well, or other exposed underground opening shall be cased, lined, or otherwise managed, as approved by the Illinois Department of Natural Resources, Office of Mines and Minerals (Department), to prevent acid or other toxic drainage from entering ground and surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit area and adjacent area. Each exploration hole, drillhole or borehole, or well that is uncovered or exposed by mining activities within the permit area shall be permanently closed, unless approved for water monitoring, or otherwise managed in a manner approved by the Department. Use of a drilled hole or borehole, or monitoring well as a water well must meet the provisions of Section 1817.41. This Section does not apply to holes solely drilled and used for blasting in the area affected by surface operations.

(Source: Amended at 19 Ill. Reg. **1993**, effective **JAN 19 1996**.)

Section 1817.22 Topsoil and Subsoil

a) Removal.

- 1) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated. Where topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the Department in accordance with subsection (b) shall be removed as a separate layer from the area to be disturbed, and segregated.
- 2) If topsoil is less than six (6) inches thick and no substitutes

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

or supplements are approved in accordance with subsection (b), the operator shall remove a six (6) inch layer that includes the A horizon and the unconsolidated materials immediately below or the A horizon and all unconsolidated material if the total available is less than six (6) inches and treat the mixture as topsoil.

- 3) The Department shall not require the removal of topsoil for minor disturbances which:
 - A) Occur at the site of small structures, such as power poles, signs, fence lines or markers; or
 - B) Will not destroy the existing vegetation, will not cause erosion and will not degrade the quality or limit the future use of the soil.

- 4) All material to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting or mining or other surface disturbance takes place.

b) Substitutes and supplements.

Selected overburden materials may be substituted for, or used as a supplement to, topsoil if the operator demonstrates to the Department that the resulting soil medium is equal to, or more suitable for, sustaining vegetation than the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation. The demonstration shall be based upon the information requirements of 62 Ill. Adm. Code 1784.13(b)(4).

- 2) A plan for topsoil substitutes or supplements will be considered a significant revision subject to the public review provisions of 62 Ill. Adm. Code 1783 and 1784, except when the extent of the area of topsoil substitutes or supplements is less than ten (10) percent of the permit area or fifty (50) acres, whichever is less; the topsoils to be substituted or supplemented must not be prime farmland; and the plan otherwise meets the requirements of 62 Ill. Adm. Code 1784.13(b)(4).

c) Storage.

- 1) Materials removed under subsection (a) if not redistributed immediately shall be segregated and stockpiled.
- 2) Stockpiled materials shall:
 - A) Be selectively placed on a stable site within the permit area;
 - B) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;
 - C) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures equally effective in controlling erosion approved by the Department; and
 - D) Not be moved until required for redistribution unless approved by the Department.

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under subsection (a)(1) would be detrimental to the quality or quantity of those materials, the Department shall approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation provided that:

- A) Such action will not permanently diminish the capability of the topsoil of the host site; and
- B) The material will be retained in a condition more suitable for redistribution than if stockpiled.

d) Redistribution.

1) Topsoil materials removed under subsection (a) shall be redistributed in a manner that:

- A) Achieves an approximate, uniform, stable thickness consistent with the approved post-mining land use, contours and surface water drainage systems;
- B) Prevents excess compaction of the materials; and
- C) Protects the materials from wind and water erosion and contamination before and after seeding and planting.

2) Before redistribution of the material removed under subsection (a) the degraded land shall be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation such treatment may be conducted after such material is replaced.

3) The Department shall not require the redistribution of topsoil or topsoil substitutes on the approved post-mining embankments of permanent impoundments or of roads if it determines that:

- A) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation; and
- B) Such embankments will otherwise be stabilized.

4) Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the required vegetative cover.

e) Subsoil segregation.

The Department shall require that the B horizon, C horizon or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with subsections (c) and (d) if it finds that such subsoil layers are necessary to comply with the revegetation requirements of Sections 1817.111, 1817.113, 1817.114, 1817.116 and 1817.117.

(Source: Amended at 19 Ill. Reg. **1993**, effective **JAN 19 1996**)

Section 1817.41 Hydrologic Balance Protection

a) General.

All Underground mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area such as diminution of recharge capacity, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to assure this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

b) Ground water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1784.14(g). Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.

c) Ground water monitoring.

- 1) Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1784.14(h). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not limited to, increased monitoring frequency, additional monitoring wells, or change in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

- 2) Ground water monitoring data shall be submitted every three (3) months to the Department or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. Ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1784.13, the Department may modify the monitoring requirements when such changes do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the operator demonstrates, using the monitoring data obtained under this subsection that:

- A) The operation has minimized disturbance to the prevailing hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; or
- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(h).

4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for under subsection (g).

d) Surface water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1784.14(g) and the following:

- 1) Surface water quality shall be protected by handling earth materials, groundwater discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainages; prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, rehabilitation and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1817.42, the operator shall use and maintain the necessary water treatment facilities or water quality controls.

2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 62 Ill. Adm. Code 1784.14(g).

e) Surface water monitoring.

- 1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1784.14(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

sample collection when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance. Surface water monitoring data shall be submitted to the Department every three (3) months, or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department concurrently with these reports to the Illinois EPA by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the operator shall notify the Department within five (5) days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g). The reporting requirements of this subsection do not exempt the operator from meeting any NPDES reporting requirements.

3) Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the operator demonstrates using the monitoring data that:

- A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved post-mining land uses; and
- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(i).

4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for in Section 1817.49(b).

f) Acid- and toxic-forming materials.

1) Drainage from acid- and toxic-forming materials and underground development waste into surface water and ground water shall be avoided by:

- A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

not buried and/or treated; and

B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1817.102.

g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1817.13 and 1817.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1817.13 and 1817.15.

h) Discharge of water into an underground mine

1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from underground mining activities;

B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1817.42;

C) Be at a known rate and quality which shall meet the effluent limitations of 62 Ill. Adm. Code 1817.42 for pH and total suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long as they will not result in any adverse impacts to the hydrologic balance; and

D) Meet with the approval of the Mine Safety and Health Administration.

2) Discharges shall be limited to the following:

A) Water;

B) Coal processing waste;

C) Fly ash from a coal-fired facility;

D) Sludge from an acid-mine drainage treatment facility;

E) Flue-gas desulfurization sludge;

F) Inert materials used for stabilizing underground mines; and

G) Underground mine development wastes.

3) Water from one underground mine may be diverted into other underground workings according to the requirements of this Section.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Gravity discharges from underground mines.

1) Surface entries and accesses to underground workings shall be located and managed to prevent or control gravity discharge of water from the mine. Gravity discharges of water from an underground mine, other than a drift mine subject to subsection (1)(2), shall be allowed by the Department if it is demonstrated that the untreated or treated discharge complies with the performance standards of this Part and any additional NPDES permit requirements.

2) Notwithstanding anything to the contrary in subsection (1)(1), the surface entries and accesses of drift mines located in acid-producing or iron-producing coal seams shall be located in such a manner as to prevent any gravity discharge from the mine.

(Source: Amended at 19 Ill. Reg.

JAN 19 1998

1993, effective

Section 1817.46 Hydrologic Balance: Siltation Structures

a) Definitions. For the purpose of this Section only:

1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

2) Disturbed area shall not include those areas:

A) In which the only underground mining activities include diversion ditches, siltation structures, or roads that are designed, constructed, and maintained in accordance with this Part; and

B) For which the upstream area is not otherwise disturbed by the permittee.

3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point-source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.

b) General Requirements.

1) Additional contributions of suspended solids and sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.

2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).

3) Siltation structures for an area shall be constructed before beginning any underground mining activities in that area and, upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan.

4) Any siltation structure which impounds water shall be designed,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) Siltation structures shall be maintained in accordance with Section 1817.49. Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding.
- 6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 1817.111 through 1817.117. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.
- 7) Any point-source discharge of water from underground workings to surface waters which does not meet the effluent limitations of Section 1817.42 shall be passed through a siltation structure before leaving the permit area.
- 8) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post-mining land use plan.
- c) Sedimentation ponds.
- 1) When used, sedimentation ponds shall:
 - A) Be used individually or in series;
 - B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1817.57; and
 - C) Be designed, constructed, and maintained to:
 - i) Provide adequate sediment storage volume;
 - ii) Provide adequate detention time to allow the effluent from the ponds to meet effluent limitations specified in Section 1817.42;
 - iii) Contain or treat the ten (10) year, twenty-four (24) hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met;
 - iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(ii);
 - v) Minimize, to the extent possible, short circuiting;
 - vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;
 - vii) Ensure against excessive settlement;
 - viii) Be free of sod, large rocks, frozen soil, and acid- or toxic-forming coal processing waste; and
 - ix) Be compared properly.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) Sedimentation pond discharge structures shall be designed according to the following:
- A) Sedimentation ponds meeting the size or other qualifying criteria of 30 CFR 77.216(a) (1986) (1994) shall comply with all the requirements of 30 CFR 77.216 (1986) (1994) and shall have principal and emergency spillways that in combination will safely pass a one hundred (100) year, six (6) hour precipitation event; and
 - B) Sedimentation ponds not meeting the size or other qualifying criteria of 30 CFR 77.216(a) (1986) (1994) shall provide a combination of principal and emergency spillways that will safely discharge a twenty-five (25) year, six (6) hour precipitation event. Such ponds may use a single spillway if the spillway:
 - i) Is an open channel of nonroadable construction and capable of maintaining sustained flows; and
 - ii) Is not earth- or grass-lined.
- e) 30 CFR 77.216 (1986) (1994) does not include any later amendments or editions.
- d) Other treatment facilities.
- 1) Other treatment facilities shall be designed to treat the ten (10) year, twenty-four (24) hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met.
 - 2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).
- e) Exemptions. Exemptions to the requirements of this Section to pass all drainage from disturbed areas through a siltation structure may be granted if the disturbed drainage area within the total disturbed area is small, and:
- 1) The disturbed drainage area within the total disturbed area is small; and
- 2) Alternate sediment control measures as described in Section 1817.45(b) are used in lieu of a siltation structure, and the permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42; or
- 3) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42.

(Source: Amended at 19 Ill. Reg.

1993

JAN 19 1996

effective

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1817.97 Protection of Fish, Wildlife and Related Environmental Values

- a) The operator shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and shall achieve enhancement of such resources where practicable.
- b) No underground mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the United States Department of the Interior (Secretary) or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) or the Illinois Endangered Species Protection Act (1977 Rev. Stat. ch. 97, par. 33-35, as amended). The operator shall immediately report to the Department any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.
- c) No underground mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the Department any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with the U.S. Fish and Wildlife Service and also, where appropriate, the State fish and wildlife agency and after consultation, shall identify whether, and under what conditions, the operator may proceed in order to ensure that the operation is not in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).
- d) Nothing in these regulations shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), or the Bald Eagle Protection Act, as amended (16 U.S.C. 668 et seq.).
- e) Each operator shall, to the extent possible using the best technology currently available:
 - 1) Ensure that electric powerlines and other transmission facilities used for, or incidental to, underground mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the Department determines that such requirements are unnecessary due to factors, such as the absence of raptors;
 - 2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law specified in 62 Ill. Adm. Code 1773.12;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3) Design fences, overland conveyers, and other potential barriers to permit passage for large mammals, except where the Department determines that such requirements are unnecessary due to factors, such as the absence of large mammals; and
- 4) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.
- f) The operator conducting underground mining activities shall avoid disturbances to, enhance where practicable, restore, or replace wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes. Underground mining activities shall avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife such as wetlands and riparian vegetation.
- g) Where fish and wildlife habitat is to be a post-mining land use, the plant species to be used on reclaimed areas shall be selected on the basis of the following criteria:
 - 1) Their proven nutritional value for fish or wildlife.
 - 2) Their use as cover for fish or wildlife.
 - 3) Their ability to support and enhance fish or wildlife habitat after the release of performance bonds. The selected plants shall be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits to fish and wildlife.
- h) Where cropland is to be the post-mining land use, where appropriate for wildlife and crop management practices, the operator shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.
- i) Where residential, public service, or industrial uses are to be the post-mining land use, and where consistent with the approved post-mining land use, the operator shall intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife.

(Source: Amended at 19 Ill. Reg. _____, effective

1993,

JAN 19 1996)

Section 1817.116 Revegetation: Standards for Success

- a) Success of Revegetation
 - 1) Success of revegetation shall be judged in accordance with Sections 1817.116 and 1817.117.
 - 2) Requirements
 - A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- B) The period of extended responsibility shall continue for a period of not less than five (5) full years, except that on lands eligible for reforestation, the period of responsibility shall be two (2) full years. (until September 30, 2004) shall be two (2) full years. Vegetation parameters identified in subsection (a)(1) above shall equal or exceed the approved standard set forth in subsection (a)(3) below.
- C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for reforestation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as diseases, pests, and vermin control; any pruning, reseeded and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 et seq.). On all lands with a post-mining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation and Trade Act of 1990 are available at the Department's Springfield office located at 300 West Jefferson, Suite 300, P.O. Box 10197, Springfield, Illinois

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 62791-0197.
- D) Fill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
 - ii) the area is small;
 - iii) the erosion is not expected to recur; and
 - iv) the area is stable.
- The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.
- E) Fill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
 - ii) the area is small;
 - iii) the erosion is not expected to recur; and
 - iv) the area is stable.
- The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.
- F) Augmentation
- †† In those cases where a permittee augments any cropland areas in order to achieve the reforestation success standards or subsection (a)(3) after the reforestation standards apply, the same or superior augmentation measures shall be applied to other lands related using the same techniques and the five (5) year period of responsibility shall recommence. The Department shall make augmentation if the other areas have been previously augmented in a similar or superior manner or have met the revegetation success standards for cropland or the permittee can document a minimum of three (3) years of successful woody species establishment for forest products and wildlife habitat uses as required by Section 1817.17(f). In the woody species have been planted less than three (3) years prior to the reforestation of the cropland areas, the Department shall grant additional time to evaluate the success of the woody species planting.
- ‡‡ The five (5) year period of responsibility shall not recommence after deep tillage on areas where the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

operator has met the revegetation success standards of subsection (a)(3)(E) below above.

*** If cropland is augmented the Department shall retain sufficient performance bond at the time of release of performance bond release to ensure the cost of steadily augmenting all other lands if required is covered in the remaining bond amount.

ii) Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed. Pumping is used to maintain water levels, or neighboring agency chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

3) Ground cover and production shall be considered equal to the approved success standard when they are not less than ninety (90) percent of the success standard. The sampling techniques for measuring success shall use a ninety (90) percent statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1817.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements of 62 Ill. Adm. Code 1800 through 1828, and that are mined or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;

B) For areas to be developed for industrial, commercial or residential use less than two (2) years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is ninety (90) percent of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Crop production shall be considered successful if it is ninety (90) percent of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year responsibility period. During the extended five (5) year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five (5) year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity sampling or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period.

D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1817.117, and

E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structure, etc.) productivity success of revegetation (tons of grasses and/or legumes per acre) shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Productivity shall be considered successful if it is ninety (90) percent of the productivity required in 62 Ill. Adm. Code 1816.116(a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period. Production for proof of productivity purposes shall also be determined in accordance with Section 1817.117(a)(2). Production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Ground cover shall be considered successful if it is ninety (90) percent with ninety (90) percent statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any two (2) years of a ten (10) year period prior to the release of the performance bond, except the first year of the five (5) year extended responsibility period. On cropland-capable land, the Department shall allow the permittee to substitute corn production for hay production. ~~This substitution shall be limited to one (1) attempt regardless of success. If determined to be a proper management practice in accordance with subsection (a)(3)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in 62 Ill. Adm. Code 1816.116(a)(4)(D) for one year of hay production on limited capability land, and non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.~~
- 4) In order to use the Agricultural Lands Productivity Formula, 62 Ill. Adm. Code 1816.116(a)(4) shall apply.
- 5) Wetland revegetation shall be deemed successful when:

- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's office located at 300 West Jefferson, Suite 300, P.O. Box 10137, Springfield, Illinois 62791-0137; and
- B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30 percent. The testing procedure in Section 1817.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- was determined to be present.
- b) The person who conducts underground mining activities shall:
- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
 - 2) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include, but are not limited to, crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and type and location of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 19 Ill. Reg. 1993, effective JAN 19 1996)

Section 1817.117 Revegetation: Tree and Shrub Vegetation

- a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of vegetation shall be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:
- 1) Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) below with $\pm 90\%$ percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for re-mining, the period of responsibility (until September 30, 2001) shall be two (2) full years. Trees and shrubs counted in determining such success shall be healthy, e.g. not demonstrating abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have been in place for at least three (3) growing seasons, i.e. three (3) years. Until September 30, 2004, on lands eligible for re-mining, trees and shrubs need not have been in place for three

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

(3) years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.

3) Permanent roads, parking lots and similar impervious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.

4) For purposes of this Section, herbaceous species means: grasses, legumes and nonleguminous forbs; woody plants means: woody legumes and nonleguminous forbs; woody plants means: woody shrubs, trees and vines; and ground cover means: the area of ground covered by the combined aboveground parts of vegetation and the litter that is produced naturally on site.

5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting and fill and gully repairs. The replanting of trees and shrubs in areas described in 62 Ill. Adm. Code 1817.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the responsibility period. The repair of rills and gullies shall be limited to those approved as a normal conservation practice under 62 Ill. Adm. Code 1817.116(a)(2)(C), (D) and (E).

b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of two hundred and fifty (250) trees or shrubs per acre. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of four hundred and fifty (450) trees or shrubs per acre.

c) For areas planted to trees or shrubs including wildlife habitat (including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:

1) The permittee shall submit a scale drawing or aerial photograph delineating the area(s) field(s) to be sampled and the total number of acres in each area field. A one (1) inch equals five hundred (500) feet (1:500) or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in

accordance with 62 Ill. Adm. Code 1774.13.

2) One of the following circular plot sizes shall be selected by the sample enumerator:

Plot Size Acres	Radius Feet
1/160	9.31
1/120	10.7
1/100	11.78
1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.51
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	53.88

3) The number of plots needed to sample 2.5 percent of the area will be calculated employing the following formula:

Number of Plots equals 2.5 percent multiplied by Sample Area in acres divided by plot size.

4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within (60) sixty feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is (60) sixty feet from the boundary of the area to be sampled or the greatest distance possible where (60) sixty feet cannot be achieved.

5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

6) Calculate population levels as follows:

A) Average number of live trees and/or shrubs per plot equals Total Number of live trees and/or shrubs divided by number of plots; and

B) Number of live trees and/or shrubs per acre equals Average number of live trees and/or shrubs per plot multiplied by plot size denominator.

7) Representatives of the Department or the Illinois Department of Conservation shall administer conduct all sampling.

d) Vegetative ground cover shall be measured by the following technique:

1) Twenty (20) random points shall be identified in the area to be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

tested.

- 2) A twenty (20) foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in ninety (90) degree increments until the entire twenty (20) foot length is within the boundary of the area to be tested or area not treated with the herbicide.
- 3) A measurement shall be taken at each two tenths (.2) foot increment directly above or below the tape.
- 4) Ground cover shall be determined to be present if any vegetation identified in Section 1817.121(a)(4) is measured at the increment.
- 5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

(Source: Amended at 19 Ill. Reg. **1993**, effective **JAN 19 1996**)

Section 1817.121 Subsidence Control

- a) The operator shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this Part shall be construed to prohibit the standard method of room-and-pillar mining.
- b) The operator shall comply with all provisions of the subsidence control plan prepared pursuant to the requirements of 62 Ill. Adm. Code 1784.20, and as approved by the Department.
- c) The operator shall:
 - 1) Correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence; and
 - 2) Correct material damage resulting from subsidence caused to any structures or facilities by repairing the damage or compensating the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase prior to mining of a noncancellable premium prepaid insurance policy payable to the surface owner in

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the full amount of the possible material damage. Nothing in subsection (c)(2) shall be deemed to grant or authorize an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining activities; and-

- 3) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation operations permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.
- d) Underground mining activities shall not be conducted beneath or adjacent to (1) public buildings and facilities; (2) churches, schools, and hospitals; (3) impoundments with a storage capacity of 20 acre-feet or more of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of such features or facilities. If the Department determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.
- e) If subsidence causes material damage to any of the features or facilities covered by subsection (d), the Department may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities.
- f) The Department shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.
- g) All underground operators shall on or before April 1, of each year submit three (3) mine maps of underground workings to the Department. The mine maps shall indicate the actual extent of mining for the calendar year prior to the submittal date. Mine maps and descriptions shall include the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage and areas of full extraction. The mine maps shall also protect the anticipated extent of mining for at least the calendar year at the time of the submittal. Mine maps shall also include, at a minimum, all features identified in subsection (d) of this Section, public roads and all Township and Range designations and section corners. The map shall be sealed by an engineer registered in the State of Illinois. The maps shall be planned as a continuous map so that areas mined each year may be added and indicated by the dates mining occurred. Maps shall include the name of mine and the operator; address of the operator; scale,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

including both written and bar scales; and by whom the map was drawn. Maps submitted shall be at a scale approved by the Department as necessary to provide sufficient detail for the information required by this subsection. Upon request of the operator, information may be held confidential, in accordance with the requirements of 62 Ill. Adm. Code 1773.13(d).

(Source: Amended at 19 Ill. Reg. 1993, effective JAN 1 9 1996)

Section 1817.131 Cessation of Operations: Temporary

a) Each person who conducts underground mining activities shall effectively support and maintain all surface access openings to underground operations, and secure surface facilities in areas in which there are no current operations, but in which operations are to be resumed under an approved permit. Temporary abandonment shall not relieve a person or his or her obligation to comply with any provisions of the approved permit.

b) Before temporary cessation of mining and reclamation operations for a period of thirty (30) days or more, or as soon as it is known that a temporary cessation will extend beyond thirty (30) days, each person who conducts underground mining activities shall submit to the Department a notice of intention to cease or abandon operations. This notice shall include a statement of the exact number of surface acres and the horizontal and vertical extent of subsurface strata which have been affected in the permit are area prior to cessation or abandonment; the extent and kind of reclamation of surface area which will have been accomplished; and identification of the backfilling, regrading, revegetation, environmental monitoring, underground opening closures, and water treatment activities that will continue during the temporary cessation.

(Source: Amended at 19 Ill. Reg. 1993, effective JAN 1 9 1996)

Section 1817.133 Post-Mining Land Capability

a) All disturbed areas shall be restored in a timely manner to a condition capable of supporting:

- 1) The uses which they were capable of supporting prior to any mining; or
- 2) Higher or better uses of which there is a reasonable likelihood of restoration; provided that, no plan of restoration shall be approved unless use of the area as proposed does not:
 - A) Present any actual or probable hazard to public health or safety;
 - B) Pose any actual threat of diminution or pollution pursuant

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

to Section 1817.41; or

C) That the proposed land use following restoration is not be found to be impracticable or unreasonable by the Department or determined by the Department to be inconsistent with land use policies and plans which are applicable, or to involve unreasonable delay in implementation. No restoration plan shall be approved if the proposed land use following reclamation is violative of other applicable law.

b) The premining capability of land to which the post-mining land capability is compared shall be the capabilities that the land would have supported if it had not been previously mined and had been properly managed. The post-mining land capability for land that has been previously mined and not reclaimed shall be judged on the basis of the land capability that existed prior to any mining; provided that, if the land cannot be reclaimed to the land capability that existed prior to any mining because of the previously mined condition, the post-mining land capability shall be judged on the basis of the highest and the best capability that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining. Quantification of land capability is to be done on the basis of acreage summaries for each land capability category, as defined in 62 Ill. Adm. Code 1701.5. The total acreage for each land capability category should approximate the corresponding premining acreage. Changes in total acreage from one land capability class to another shall require approval in accordance with Section 1817.133(a)(2).

c) In determining the capability of affected land, the Department shall use as a guideline the handbook entitled: Land Capability Classification, Agriculture Handbook No. 210, published by the Natural Resources Sett Conservation Service of the U.S. Department of Agriculture. A copy of this handbook shall be on file with the Department and the Secretary of State. Interested persons may present views respecting the capability of affected lands in the due course of the Department's review of the permit application.

(Source: Amended at 19 Ill. Reg. 1993, effective JAN 1 9 1996)

Section 1817.151 Primary roads

Primary roads shall meet the requirements of Section 1817.150 and the additional requirements of this Section.

a) Certification. The construction or reconstruction of primary roads shall be certified in a report submitted to the Department by a qualified registered professional engineer within thirty (30) days after completion of construction. For purposes of this Section, completion of construction shall mean the road is being used for its

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

intended purpose as determined by the Department. The professional engineer shall be experienced in the design and construction of roads, as evidenced by the placement of a registered professional engineer's seal on the report. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

- b) Safety factor. Each primary road embankment shall be shown to have a minimum static factor of safety of 1.3, or shall be designed in compliance with the following design standards:

- 1) The embankment foundation area shall be cleared of all organic material and the entire foundation surface shall be scarified;
- 2) If the natural slope of the foundation as measured at right angles to the roadway center line is steeper than 8H:1V, the embankment shall be benched into the existing slope beginning at the embankment toe and then filled with compacted level lifts;
- 3) The embankment fill material shall be free of sod, large roots, and other large vegetative matter;
- 4) The fill shall be brought up in horizontal layers of such thickness as required to facilitate compaction in accordance with prudent construction standards;
- 5) The moisture content of the fill material shall be sufficient to secure proper compaction;
- 6) The side slopes of the embankment shall be no steeper than 2H:1V;
- 7) Maximum fill height shall be twenty-five (25) feet as measured from natural ground at the downstream toe to the top of the embankment;
- 8) Embankments shall have a minimum top width of $(H + 35)/5$, where "H" is the embankment height as measured from natural ground at the downstream toe to the top of the embankment, and shall be adequate for the intended use.

c) Location.

- 1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.
- 2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Department as temporary routes during periods of road construction.

- d) Drainage control. In accordance with the approved plan:

- 1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross-drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Department as necessary to ensure proper drainage control design in accordance with prudent engineering practices.
- 2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

control erosion at inlets and outlets;

- 3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;
- 4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;
- 5) Natural stream channels shall not be altered or relocated without the prior approval of the Department in accordance with applicable sections of 62 Ill. Adm. Code 1817.41 through 1817.43 and 1817.57; and
- 6) Except as provided in subsection(c)(2) above, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Department shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.

- e) Surfacing. Primary roads shall be surfaced with material approved by the Department as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(Source: Amended at 19 Ill. Reg. _____, effective

1993

JAN 19 1996

Section 1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

- a) This Section sets forth performance standards for minor underground mine facilities not at or adjacent to the processing or preparation facility or area, such as air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures, and associated roads. These performance standards and other requirements are the minimum standards which shall be required of such operations, however, the Department will require application of applicable performance standards of 62 Ill. Adm. Code 1810 through 1828 and this Part ~~is~~ if such minor facilities significantly impact land, air or water resources.
- b) Habitats of unique value for fish, wildlife, and other related environmental values shall not be disturbed.
- c) The person who utilizes such facilities shall, to the extent practicable, measure important environmental characteristics of the area to be affected during the operations, to minimize environmental damage to the area and to provide supportive information for any permit application that person may submit under 62 Ill. Adm. Code 1785.23.

d) Roads.

- 1) Vehicular travel on other than established, graded and surfaced

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

roads shall be limited by the person who conducts coal mining activities to that absolutely necessary to conduct the activities. Travel shall be confined to graded and surfaced roads during periods when excessive damage to vegetation or rutting of the land surface could result.

2) Any new roads associated with the facilities shall comply with Sections 1817.150 and 1817.151 of this Part.

3) Existing roads may be used in accordance with the following:

- A) All applicable Federal, State, and local requirements shall be met;
- B) If the road is significantly altered for the operation, including, but not limited to, change of grade, widening, or change of route, or if use of the road contributes additional suspended solids to streamflow or runoff, then subsection paragraph (h) of this Section shall apply to all areas of the road which are altered or which result in such contributions; and
- C) If the road is significantly altered for the underground mining activities and will remain as a permanent road after activities are completed, the permittee shall ensure that the requirements of Sections 1817.150 and 1817.151 of this Part are met for the design, construction, alteration, and maintenance of the road.

4) Promptly after the activities are completed, existing restored:

- A) To a condition equal to or better than their pre-disturbance condition; or
 - B) To the condition required for permanent roads under Sections 1817.150 and 1817.151 of this Part, as appropriate.
- e) If excavation, artificial flat areas, or embankments are created during establishment of minor facilities, these areas shall be returned to the approximate original contour promptly after such features are no longer needed for the underground mining activity.
- f) If topsoil shall be removed, stored, and redistributed on disturbed areas as necessary to assure successful revegetation or as required by the Department.
- g) Revegetation of areas disturbed by the establishment or use of minor facilities shall be performed by the permittee, or his or her agent. All revegetation shall be in compliance with the plan approved by the Department and carried out in a manner that encourages prompt vegetative cover comparable with approved post-disturbance land uses.
- h) With the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities, no ephemeral, intermittent or perennial stream shall be diverted during activities in connection with minor underground mine facilities. Overland flow of water shall be diverted in a manner that:
- 1) Prevents erosion;
 - 2) To the extent possible using the best technology currently available, prevents additional contribution of suspended solids

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

to streamflow or runoff outside the disturbed area; and

- 3) Complies with all other applicable State or Federal requirements.

i) Each borehole, well, or other exposed underground opening created must meet the requirements of Sections 1817.13, 1817.14, and 1817.15.

j) All facilities and equipment shall be removed from the disturbed area promptly when they are no longer needed, except for those facilities and equipment that the Department determines may remain to:

- 1) Provide additional environmental quality data.
 - 2) Reduce or control the on and off-site effects of the activities; or
 - 3) Facilitate future surface mining and reclamation operations by the person conducting the activities, under an approved permit.
- k) Such minor facilities shall be utilized in a manner which minimizes disturbance of the prevailing hydrologic balance, and shall include sediment control measures such as those listed in Section 1817.15 or siltation structures which comply with Section 1817.16. The Department may specify additional measures which shall be adopted by the permittee.

l) Toxic or acid-forming materials shall be handled and disposed of in accordance with Section 1817.102. If specified by the Department, additional measures shall be adopted by the permittees.

(Source: Amended at 19 Ill. Reg. **1993**, effective

JAN 19 1996)

Section 1817.190 Affected Acreage Map

- a) On or before September 1 of each year, every permit holder shall submit to the Department and to the county clerk reports and maps of affected areas.
- b) Two (2) copies, plus one (1) additional copy for each county in which the permit is located, of the reports and maps shall be executed and submitted to the Department and to the county clerk. The reports and maps shall be attached to the original copy of the permit and shall be submitted during the fiscal year just ended. One of the copies submitted shall contain the original signature of a company official. The Department shall require the map to be executed by an engineer registered in accordance with the Illinois Professional Engineering Act (1817-Rev-Stat-1993) or a land surveyor registered in accordance with the Illinois Professional Land Surveyor Act (1817-Rev-Stat-1993). The Department shall then forward one copy to the county clerk(s).
- c) The map shall be placed as a continuous map so that the area affected each year may be added and indicated on the map by the dates it was affected. Report as required by Section 1817.190 shall be submitted to the Department. Map scales shall be in accordance with 62 Ill. Adm. Code 1779.25 and 1779.23(e)(1).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- d) All maps shall show sections, township, range and county lines coming within the scope of the map; access to the area from the nearest public road and all weather roads within the minded area; and a title containing the name of the operator, the address, scale of the map, by whom the map was drawn, name of the surveyor or engineer.

(Source: Amended at 19 Ill. Reg. **1993**, effective
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permanent Program Performance Standards--Surface Mining Activities
- 2) Code Citation: 62 Ill. Adm. Code 1816
- 3)

Section Numbers	Adopted Action
1816.13	Amend
1816.22	Amend
1816.41	Amend
1816.46	Amend
1816.79	Amend
1816.97	Amend
1816.116	Amend
1816.117	Amend
1816.133	Amend
1816.151	Amend
1816.190	Amend
1816.Appendix A	Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

- 5) Effective Date of Amendments: January 19, 1996

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? Yes

- 8) Date Filed in Agency's Principal Office: January 19, 1996

- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1569 - February 17, 1995

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

All ILCS cites have been put in brackets.

In the Authority note, the "Ill. Rev. Stat." cite has been stricken.

In Section 1816.13, the proposed word "backfilled" has been deleted and stricken language has been reinstated; "Natural Resources, Office of" has been inserted between "Of" and "Mines".

In Section 1816.15, the proposed word "backfilled" has been deleted and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

stricken language has been reinstated.

In Section 1816.116(e), "the disturbed drainage area within the total disturbed area is small; and" has been added at the end of the first sentence and stricken as "(1)"; subsection (2)(A) is now subsection (1) and subsection (2)(B) is now subsection (2).

In Section 1816.116(a)(2)(F), reinstate "Augmentation"; reinstate "(11)" as "(1)" and change last word "above" to "below"; after the word "recommendation" add "after deep tillage"; the last proposed paragraph has been renumbered to "(11)"; after "wetland area" add ", except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used."

In Section 1816.116(a)(3)(F), the proposed language has been deleted and replaced with "Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period."

In Section 1816.116(a)(4)(A)(ii), the proposed language has been deleted and replaced with "The Department may approve a field to represent non-contiguous areas less than or equal to four acres of the same capability if it determines that the field is representative of reclamation of such areas. These areas shall be managed and vegetated in the same manner as the representative field."

In Section 1816.116(a)(4)(D), the last proposed sentence has been deleted.

In Section 1816.116(a)(5), the proposed word "criteria" has been deleted; in subsections (5)(A) and (B), the word "aerial" has been corrected to "areal".

In Section 1816.116(c) has been deleted.

In Section 1816.117(c)(1), "(1.500)" has been stricken

In Section 1817.117(c)(7), "or the Illinois Department of Conservation" has been stricken; and "conduct" has been replaced with "administer".

In Section 1816.133(c), "Soil" has been deleted and replaced with "Natural Resources".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

In Section 1816.151(a), "Section" has been capitalized.

In Section 1816.190(c), "1771.23(e)(1)" has been stricken and replaced with "1779.25".

In Section 1816.Appendix A, Permit Specifics Yield Standard "permit area" has been stricken and replaced with "pit"; in subsection (b), the Proposed first sentence has been deleted and "The" has been reinstated; "mine permit area" has been stricken and replaced with "pit"; proposed subsections (c) and (d) have been deleted and proposed subsection "(e)" has been designated as subsection "(c)"; in new subsection (c), proposed language and at the request of the permittee" has been deleted; the proposed word "permit" has been deleted and the phrase around "(pit)" has been deleted; after the word "productivity" in the second sentence, delete the comma; delete "after approval of the", and add "subsequent to the" after the word "productivity"; at the end of "(c)", add "and applied to productivity fields tested after the recalculation"; delete proposed "(f)".

In Section 1816.Appendix A, Agricultural Lands Productivity Formula Sampling Method, "Mines and Minerals" has been stricken and replaced with "Natural Resources"; "(1:500)" and "(1:100)" has been stricken.

12) Have all changes agreed upon by JCRR and the agency been made as indicated in the agreement letter issued by JCRR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): The amendments update, streamline and clarify the rules so that the Department may more effectively fulfill Illinois' responsibilities under the Surface Coal Mining Land Conservation and Reclamation Act (State Act), 225 ILCS 720, as well as make the rules more consistent with federal counterpart rules. Revisions to the regulatory revegetation success provisions reflect recent statutory changes to Section 3.15 of the State Act, which was amended to change the responsibility period from five years to two years for areas eligible for remaining. Other amendments are in response to the federal Office of Surface Mining Reclamation and Enforcement's directive published at 58 Fed. Reg. 46850 (September 3, 1993).

16) Information and questions regarding these adopted amendments shall be directed to:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1809

The full text of the adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS
TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS
PART 1816
PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES

Section	
1816.11	Signs and Markers
1816.13	Casing and Sealing of Drilled Holes: General Requirements
1816.14	Casing and Sealing of Drilled Holes: Temporary
1816.15	Casing and Sealing of Drilled Holes: Permanent
1816.21	Topsoil: General Requirements (Repealed)
1816.22	Topsoil and Subsoil
1816.23	Topsoil: Storage (Repealed)
1816.24	Topsoil: Redistribution (Repealed)
1816.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1816.41	Hydrologic Balance Protection
1816.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1816.43	Diversions
1816.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1816.45	Hydrologic Balance: Sediment Control Measures
1816.46	Hydrologic Balance: Siltation Structures
1816.47	Hydrologic Balance: Discharge of Structures
1816.48	Hydrologic Balance: Acid-Forming and Toxic-Forming Spoil (Repealed)
1816.49	Impoundments
1816.50	Hydrologic Balance: Ground Water Protection (Repealed)
1816.51	Hydrologic Balance: Protection of Ground Water Recharge Capacity (Repealed)
1816.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1816.53	Hydrologic Balance: Transfer of Wells (Repealed)
1816.54	Hydrologic Balance: Water Rights and Replacement (Repealed)
1816.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1816.56	Post-Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
1816.57	Hydrologic Balance: Stream Buffer Zones
1816.59	Coal Recovery
1816.61	Use of Explosives: General Requirements
1816.62	Use of Explosives: Pre-Blasting Survey
1816.64	Use of Explosives: Public Notice of Blasting Schedule
1816.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1816.66	Use of Explosives: Blasting Signs, Warnings, and Access Control
1816.67	Use of Explosives: Control of Adverse Effects
1816.68	Use of Explosives: Records of Blasting Operations
1816.71	Disposal of Excess Spoil: General Requirements
1816.72	Disposal of Excess Spoil: Valley Fills/Head-of-Follow Pits

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1816.73 Disposal of Excess Spoil: Head-Of-Hollow Fills (Repealed)
- 1816.74 Disposal of Excess Spoil: Durable Rock Fills
- 1816.75 Disposal of Excess Spoil: Preexisting Beaches
- 1816.79 Protection of Underground Mining
- 1816.91 Coal Mine Waste: General Requirements
- 1816.82 Coal Processing Waste Banks: Site Inspection (Repealed)
- 1816.93 Coal Mine Waste: Refuse Piles
- 1816.84 Coal Mine Waste: Impounding Structures
- 1816.95 Coal Processing Waste Banks: Construction Requirements (Repealed)
- 1816.96 Coal Processing Waste: Burning (Repealed)
- 1816.97 Coal Mine Waste: Burned Waste Utilization
- 1816.98 Coal Processing Waste: Return to Underground Workings (Repealed)
- 1816.99 Disposal of Noncoal Mine Wastes
- 1816.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)
- 1816.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)
- 1816.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)
- 1816.94 Coal Processing Waste: Time and Requirements for Completion of Covering (Repealed)
- 1816.95 Stabilization of Surface Areas
- 1816.97 Protection of Fish, Wildlife, and Related Environmental Values
- 1816.99 Slides and Other Damage
- 1816.100 Contemporaneous Reclamation
- 1816.101 Backfilling and Grading: General Requirements
- 1816.102 Backfilling and Grading: General Grading Requirements
- 1816.103 Backfilling and Grading: Covering or Treating Coal and Acid- and Toxic-Forming Materials (Repealed)
- 1816.104 Backfilling and Grading: Thin Overburden
- 1816.105 Backfilling and Grading: Thick Overburden
- 1816.106 Backfilling and Grading: Previously Mined Areas
- 1816.107 Backfilling and Grading: Steep Slopes
- 1816.111 Revegetation: General Requirements
- 1816.112 Revegetation: Use of Introduced Species (Repealed)
- 1816.113 Revegetation: Timing
- 1816.114 Revegetation: Mulching and Other Soil Stabilizing Practices
- 1816.115 Revegetation: Grazing (Repealed)
- 1816.116 Revegetation: Standards for Success
- 1816.117 Revegetation: Tree and Shrub Vegetation
- 1816.131 Cessation of Operations: Temporary
- 1816.132 Cessation of Operations: Permanent
- 1816.133 Post-Mining Land Capability
- 1816.150 Roads: General
- 1816.151 Primary Roads
- 1816.180 Utility Installations
- 1816.181 Support Facilities
- 1816.190 Affected Acreage Map

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- APPENDIX A Agricultural Lands Productivity Formula
- EXHIBIT A County Crop Yields by Soil Mapping Unit
- TABLE A Subsoil Adjustments
- TABLE B Soil Variance Codes
- TABLE C County Numbering System
- TABLE D Sample Points Per Crop Acres
- TABLE E Soil Master Files (Repealed)
- TABLE F County Cropped Acreage File (Repealed)

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8224; amended at 9 Ill. Reg. 13310, effective October 10, 1985; amended at 10 Ill. Reg. 8985, effective July 1, 1986; amended at 11 Ill. Reg. 8131, effective July 1, 1987; amended at 14 Ill. Reg. 11830, effective January 1, 1991; amended at 15 Ill. Reg. 17166, effective January 1, 1992; amended at 17 Ill. Reg. 11001, effective July 1, 1993; amended at 20 Ill. Reg. 2027, effective JAN 9 1996.

Section 1816.13 Casing and Sealing of Drilled Holes: General Requirements

Each exploration hole, other drill or borehole, well, or other exposed underground opening shall be cased, sealed, or otherwise managed, as approved by the Illinois Department of Natural Resources, Office of Mines and Minerals (Department), to prevent acid or other toxic drainage from entering ground or surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area. If these openings are uncovered or exposed by surface mining activities within the permit area they shall be permanently closed, unless approved for water monitoring, or otherwise managed in a manner approved by the Department. Use of a drilled hole or borehole or monitoring well as a water well must meet the provisions of Section 1816.41. This Section does not apply to holes solely drilled and used for blasting.

(Source: Amended at 20 Ill. Reg. 2027, effective JAN 9 1996)

Section 1816.22 Topsoil and Subsoil

a) Removal.

- 1) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated. Where topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the Department in accordance with subsection (b) shall be removed as a separate layer from the area to be disturbed, and segregated.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

JAN 19 1996

Section 1816.41 Hydrologic Balance Protection

a) General. All surface mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area, such as limitation of recharge capacity, to prevent violations of State and Federal water quality standards and effluent limitations, to assure the protection or replacement of water rights, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to achieve this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

b) Ground water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(h) and the following:

- 1) Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.
- 2) Ground water quantity shall be protected by handling earth materials and runoff in a manner that will restore the approximate premining recharge capacity of the reclaimed area as a whole, excluding coal mine waste disposal areas and fills, so as to allow the movement of water to the ground water system.

c) Ground water monitoring.

- 1) Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1780.21(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited to, increased monitoring frequency, additional monitoring wells or changes in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

- 2) Ground water monitoring data shall be submitted every three (3) months to the Department or more frequently as prescribed by the Department. Ground water monitoring reports shall be submitted

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h).

- 3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the operator demonstrates, using the monitoring data obtained under this subsection that:

- A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or
- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1780.21.

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for under subsection (g).

- d) Surface water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(i) and the following:

- 1) Surface water quality shall be protected by handling earth materials, ground water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage; prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, stabilization and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1816.42, the operator shall use and maintain the necessary water treatment facilities or water quality controls.

- 2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

e) outlined in the plan approved under 62 Ill. Adm. Code 1780.21(h).

- 1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1780.21(j). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of sample collection, when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance.

- 2) Surface water monitoring data shall be submitted to the Department every three (3) months, or more frequently as prescribed by the Department in those circumstances where a more frequent monitoring schedule is necessary to detect adverse impacts to the surface water system. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department concurrently with these reports into the Illinois EPA by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the operator shall notify the Department within five (5) days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h). The reporting requirements of this paragraph do not exempt the operator from meeting any NPDES reporting requirements.

- 3) Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the operator demonstrates using the monitoring data that:

- A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or
- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Code 1780.21(j).

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for in Section 1816.49(b).

f) Acid- and toxic-forming materials.

- 1) Drainage from acid- and toxic-forming materials into surface water and ground water shall be avoided by:

- A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated, and
- B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

- 2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1816.102.

- g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1816.13 through 1816.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1816.13 through 1816.15.

- h) Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been adversely impacted by contamination, diminution, or interruption proximately resulting from the surface mining activities. Information used to determine the extent of the impact of mining upon ground water and surface water shall include, but not be limited to, baseline hydrologic information required in 62 Ill. Adm. Code 1780.21 and 1780.22.

- i) Discharges into an underground mine.

- 1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

- A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from surface

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

mining activities:

- B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1816.42;
 - C) Be at a known rate and quality which shall meet the effluent limitations of Section 1816.42 for pH and total suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long they will not result in any adverse impacts to the hydrologic balance, and
 - D) Meet with the approval of the Mine Safety and Health Administration.
- 2) Discharges shall be limited to the following:
 - A) Water;
 - B) Coal processing waste;
 - C) Fly ash from a coal-fired facility;
 - D) Sludge from an acid-mine drainage treatment facility;
 - E) Flue-gas desulfurization sludge;
 - F) Inert materials used for stabilizing underground mines; and
 - G) Underground mine development wastes.

(Source: Amended at 20 Ill. Reg. **2027**, effective **JAN 19 1996**)

Section 1816.46 Hydrologic Balance: Siltation Structures

a) Definitions. For the purpose of this Section only:

- 1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.
 - 2) Disturbed area shall not include those areas:
 - A) In which the only surface mining activities include diversion ditches, siltation structures, or roads that are designed, constructed, and maintained in accordance with this Part; and
 - B) For which the upstream area is not otherwise disturbed by the permittee.
 - 3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point-source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.
- b) General Requirements.
 - 1) Additional contributions of suspended solids sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.
 - 2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).
 - 3) Siltation structures for an area shall be constructed before

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

beginning any surface mining activities in that area and upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan.

- 4) Any siltation structure which impounds water shall be designed, constructed, and maintained in accordance with Section 1816.42.
 - 5) Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding.
 - 6) When a siltation structure is removed, the land on which the siltation structure was located shall be sealed and revegetated in accordance with the reclamation plan and Sections 1816.41 through 1816.17. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.
 - 7) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post-mining land use plan.
- c) Sedimentation ponds.
 - i) When used, sedimentation ponds shall:
 - A) Be used individually or in series;
 - B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1816.57; and
 - C) Be designed, constructed, and maintained to:
 - i) Provide adequate sediment storage volume;
 - ii) Provide adequate detention time to allow the effluent from the ponds to meet effluent limitations specified in Section 1816.42;
 - iii) Contain or treat the ten (10) year, twenty-four (24) hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met;
 - iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(ii);
 - v) Minimize, to the extent possible, short circuiting;
 - vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;
 - vii) Ensure against excessive settlement;
 - viii) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal processing waste; and
 - ix) Be compacted properly.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

2) Sedimentation pond discharge structures shall be designed according to the following:

- A) Sedimentation ponds meeting the size or other qualifying criteria of 30 CFR 77.216(a)(19861994) shall comply with all the requirements of 30 CFR 77.216(19861994) and shall have principal and emergency spillways that in combination will safely pass a one hundred (100) year, six (6) hour precipitation event; and
- B) Sedimentation ponds not meeting the size or other qualifying criteria of 30 CFR 77.216(a)(1986 1994) shall provide a combination of principal and emergency spillways that will safely discharge a twenty-five (25) year, six (6) hour precipitation event. Such ponds may use a single spillway if the spillway:

- i) is an open channel of nonerodible construction and capable of maintaining sustained flows; and
- ii) is not earth- or grass-lined.

C) 30 CFR 77.216 (19861994) does not include any later amendments or editions.

d) Other treatment facilities.

- 1) Other treatment facilities shall be designed to treat the ten (10) year, twenty-four (24) hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met.

2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).

- e) Exemptions. Exemptions to the requirements of this Section to pass all drainage from disturbed areas through a siltation structure may be granted if the disturbed drainage area within the total disturbed area is small, and

it the disturbed drainage area within the total disturbed area is small, and

1) Alternates sediment control measures as described in Section 1816.45(b) are used in lieu of a siltation structure, and the Permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42 of

2) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42.

(Source: Amended at 20 Ill. Reg. 2027 1, effective
JAN 1 9 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1816.79 Protection of Underground Mining

a) No surface coal mining activities shall be conducted closer than five hundred (500) feet to any point of either an active or abandoned underground mine, except to the extent that:

- 1) the nature, timing, and sequence of the activities that propose to mine closer than five hundred (500) feet to an active underground mine are jointly approved by the Department and the Mine Safety and Health Administration (MSHA); and

2) The activities result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public; and

- b) Surface mining activities shall be designed to protect disturbed surface areas including spoil disposal sites so as not to endanger any present or future operations of either surface or underground mining activities. The nature, timing and sequence of the activities that propose to mine closer than five hundred (500) feet to an active underground mine are jointly approved by the Department and the Mine Safety and Health Administration (MSHA).

(Source: Amended 20 Ill. Reg. 2027 1, effective
JAN 1 9 1996)

Section 1816.97 Protection of Fish, Wildlife, and Related Environmental Values

- a) The operator shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and shall achieve enhancement of such resources where practicable.

b) No surface mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the United States Department of the Interior (Secretary) or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) or the Illinois Endangered Species Protection Act (415 ILCS 1977-CH-8, par. 331 et seq.). The operator shall immediately report to the Department any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.

c) No surface mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the Department any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department shall

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

consult with the U.S. Fish and Wildlife Service and also, where appropriate, the State fish and wildlife agency and after consultation, shall identify whether, and under what conditions, the operator may proceed in order to ensure that the operation is not in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.).

d) Nothing in these regulations shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.), or the Bald Eagle Protection Act, as amended, (16 U.S.C. 663 et seq.).

e) Each operator shall, to the extent possible using the best technology currently available:

1) Ensure that electric powerlines and other transmission facilities used for, or incidental to, surface mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the Department determines that such requirements are unnecessary, due to factors such as the absence of raptors;

2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law specified in 62 Ill. Adm. Code 1773.12;

3) Design fences, overland conveyers, and other potential barriers to permit passage for large mammals, except where the Department determines that such requirements are unnecessary, due to factors such as the absence of large mammals; and

4) Fence, cover, or use of other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

f) The operator conducting surface mining activities shall avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes. Surface mining activities shall avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife such as wetlands and riparian vegetation.

g) Where fish and wildlife habitat is to be a post-mining land use, the plant species to be used on reclaimed areas shall be selected on the basis of the following criteria:

1) Their proven nutritional value for fish or wildlife.
2) Their use as cover for fish or wildlife.
3) Their ability to support and enhance fish or wildlife habitat after the release of performance bonds. The selected plants shall be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits to fish and wildlife.

h) Where cropland is to be the post-mining land use, where appropriate for wildlife and crop management practices, the operator shall

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.

i) Where residential, public service, or industrial uses are to be the post-mining land use, and where consistent with the approved post-mining land use, the operator shall intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife.

(Source: Amended at 20 Ill. Reg. 2027, effective JAN 19 1996)

Section 1816.116 Revegetation: Standards for Success

a) Success of Revegetation

1) Success of revegetation shall be judged in accordance with Sections 1816.116 and 1816.117.

2) Requirements

A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.

B) The period of extended responsibility shall continue for a period of not less than five (5) full years, except that, on lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two (2) full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved success standard set forth in subsection (a)(3).

C) The Department shall approve selective husbandry practices, excluding irrigation of augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as disease, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

U.S.C. 1421 et seq.). On all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation, and Trade Act of 1990 are available at the Department's Springfield office located at 300 West Jefferson, Suite 300, P.O. Box 10197, Springfield, Illinois 62791-0197.

- D) Fill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- the area is a minor erosional feature;
 - the area is small;
 - the erosion is not expected to recur; and
 - the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- E) Fill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- the area is a minor erosional feature;
- the area is small;
- the erosion is not expected to recur; and
- the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

issued by the Department.

F) Augmentation

1) In those cases where a permittee augments an area to achieve the capability to cropland status in order to achieve the revegetation success standards of subsection (a)(3)(E) of the Department's standards, the permittee shall apply the same augmentation measures to all other high capability lands located within the same techniques and the same (57-year period of responsibility) as the permittee. The Department shall waive augmentation if the other high capability areas have been previously augmented in a similar or similar manner or have met the revegetation success standards of subsection (a)(3)(E) of the Department's standards. A minimum of three (3) years of successful woody species establishment for forest prescribes and wildlife habitat land uses as required by Section 1816.14(f) of the Department's standards. If the woody species have been planted less than three (3) years prior to the augmentation of the high capability cropland area, the Department shall grant additional time to evaluate the success of the woody species planting.

1) The five (5) year period of responsibility shall not commence after deep tillage on areas where the operator has met the revegetation success standards of subsection (a)(3)(E) below above.

1) If high capability cropland is augmented the Department shall retain sufficient performance bond at the time of phase II performance bond release to ensure the cost of similarly augmenting all other high capability lands, if required, is covered in the remaining bond amount.

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments of fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than ninety (90) percent of the success standard. The sampling techniques for measuring success shall use a ninety (90) percent statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1829 and that are reclaimed or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;
- B) For areas to be developed for industrial, commercial or residential use less than two (2) years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4) below. Crop production shall be considered successful if it is ninety (90) percent of that crop production required in subsection (a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year responsibility period. During the extended five (5) year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five (5) year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period;

- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117; and
- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success of revegetation (tons of grasses and/or legumes per acre) shall be determined in accordance with subsection (a)(4). Productivity shall be considered successful if it is ninety (90) percent of the productivity required in subsection (a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. Ground cover shall be considered successful if it is ninety (90) percent with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) years of a ten (10) year period prior to the release of the performance bond, except the first year of the five (5) year extended responsibility period. On high capacity land, the Department shall allow the permittee to substitute corn production for hay production. This substitution shall be limited to one (1) attempt regardless of success. If determined to be a proper management practice in accordance with subsection (a)(2)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) below for one year of hay production on limited capacity land. Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

- F) In order to use the Agricultural Lands Productivity Formula, Section 1816 Appendix A, to determine success of revegetation, the following shall apply:
- A) The permittee shall submit annually, by February 15, a one (1) inch equals five hundred (500) feet (1:500) or larger scale drawing or aerial photograph delineating:
- Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are established in a submittal, the boundaries shall not be changed without recommending the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii) below:

- ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1714.13(b)(2) until July 15 of the submittal year. Each such amendment shall contain a written explanation of changes from the original submittal and include a map reflecting the changes.

A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment. The Department may approve a field to represent non-productive areas less than or equal to four acres of the acre capability if it determines that the field is representative of reclamation of such areas. These areas shall be managed and vegetated in the same manner as the representative field.

- B) Fields identified in subsection (a)(4)(A) above to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling method of Section 1816, Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816, Appendix A and shall remain vegetated with permanent ground cover species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of vegetation through soil surveys or when statistically valid sampling procedures are developed.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

for determining success of revegetation based upon cropping and sampling a representative portion of the field.

- C) Adjustments for abnormal growing conditions shall be made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation. At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such an appraisal or adjustment shall be arranged, the permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.

- D) The crops to be grown shall include those commonly grown in surrounding unmined cropland such as corn, soybeans, hay, sorghum, wheat, or oats. The Department may approve a crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one (1) successful year of corn and if the Department has approved its use a maximum of one (1) successful year each of hay and wheat and oat crops.

- 5) Wetland revegetation shall be deemed successful when:

- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Determination Manual (Department of the Army, Technical Report 1-37-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's office located at 300 West Jefferson, Suite 300, P.O. Box 10137, Springfield, Illinois 62791-0137; and

- B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30 percent. The testing procedure in Section 1816.17(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

- b) The person who conducts surface mining activities shall:

- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
- 2) Permittees shall submit by February 15 of each year a report of

DEMAND FOR AVAILABLE RESOURCES

NOTICE OF ADOPTED AMENDMENTS

reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period of a year specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary revegetation, seedings, grasses and legumes, a planted trees and shrubs, planted soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be placed as a continuous map in the reclamation activities conducted each year. The map may be added and indicated on the map by the dates the activities were conducted.

Source: America at 20 Ill. Reg. 2027, effective

Section 1816.117 Revegetation: Tree and Shrub Vegetation

- a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of vegetation should be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:

Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) above below with ninety (93) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for reming, the period of responsibility (until September 30, 2004) shall be two (2) full years. Trees and shrubs counted in determining such success shall be healthy, e.g. not demonstrating abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have been in place for at least three (3) growing seasons, i.e. three (3) years. Until September 30, 2004, on lands eligible for reming, trees and shrubs need not have been in place for three (3) years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

- 2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.

SECTION TWO: NEW IDEAS

STANDARDS FOR ACCESS TO EDUCATION

- 3) Permanent roads, parking lots and similar imperious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including bond, swales, etc., shall not require the planting of trees and shrubs.
- 4) For purposes of this Section, herbaceous species means grasses, legumes and nonleguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the planted or seeded ground plants of vegetation and the litter that is produced naturally on site.

- 4) For purposes of this section, "covered areas" shall include all areas, including but not limited to, roads, parking lots, streets and viaducts, and ground covered areas, and any other areas, where the use of vegetation is required to prevent erosion, sedimentation, or other adverse effects on the environment.

- 5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting, and kill and gully repairs. The replanting of trees and shrubs in areas described in 62 Ill. Adm. Code 18.6.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the responsibility period. The repair of kills and gullies shall be limited to those approved as a normal conservation practice under 62 Ill. Adm. Code 18.6.116(a)(2)(C), (D) and (E).

- b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of two hundred and fifty (250) trees or shrubs per acre. Planting arrangements such as hedgerows, buffer plantings, clump plantings, shelterbelts, and Open heterogeneous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of four hundred and fifty (450) trees or shrubs per acre.

- For areas planned for trees or shrubs including wildlife habitat (including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:

- h) The permittee shall submit a scale drawing or aerial photograph delineating the area field(s) to be sampled and the total number of acres in each area field. A one (1) inch equals five hundred (500) feet 4:500 or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed, unless the Department approves a request in accordance with 62 C.F.R. 11.43, 11.44, 11.45, 11.46, 11.47, 11.48, 11.49, 11.50, 11.51, 11.52, 11.53, 11.54, 11.55, 11.56, 11.57, 11.58, 11.59, 11.60, 11.61, 11.62, 11.63, 11.64, 11.65, 11.66, 11.67, 11.68, 11.69, 11.70, 11.71, 11.72, 11.73, 11.74, 11.75, 11.76, 11.77, 11.78, 11.79, 11.80, 11.81, 11.82, 11.83, 11.84, 11.85, 11.86, 11.87, 11.88, 11.89, 11.90, 11.91, 11.92, 11.93, 11.94, 11.95, 11.96, 11.97, 11.98, 11.99, 12.00, 12.01, 12.02, 12.03, 12.04, 12.05, 12.06, 12.07, 12.08, 12.09, 12.10, 12.11, 12.12, 12.13, 12.14, 12.15, 12.16, 12.17, 12.18, 12.19, 12.20, 12.21, 12.22, 12.23, 12.24, 12.25, 12.26, 12.27, 12.28, 12.29, 12.30, 12.31, 12.32, 12.33, 12.34, 12.35, 12.36, 12.37, 12.38, 12.39, 12.40, 12.41, 12.42, 12.43, 12.44, 12.45, 12.46, 12.47, 12.48, 12.49, 12.50, 12.51, 12.52, 12.53, 12.54, 12.55, 12.56, 12.57, 12.58, 12.59, 12.60, 12.61, 12.62, 12.63, 12.64, 12.65, 12.66, 12.67, 12.68, 12.69, 12.70, 12.71, 12.72, 12.73, 12.74, 12.75, 12.76, 12.77, 12.78, 12.79, 12.80, 12.81, 12.82, 12.83, 12.84, 12.85, 12.86, 12.87, 12.88, 12.89, 12.90, 12.91, 12.92, 12.93, 12.94, 12.95, 12.96, 12.97, 12.98, 12.99, 13.00, 13.01, 13.02, 13.03, 13.04, 13.05, 13.06, 13.07, 13.08, 13.09, 13.10, 13.11, 13.12, 13.13, 13.14, 13.15, 13.16, 13.17, 13.18, 13.19, 13.20, 13.21, 13.22, 13.23, 13.24, 13.25, 13.26, 13.27, 13.28, 13.29, 13.30, 13.31, 13.32, 13.33, 13.34, 13.35, 13.36, 13.37, 13.38, 13.39, 13.40, 13.41, 13.42, 13.43, 13.44, 13.45, 13.46, 13.47, 13.48, 13.49, 13.50, 13.51, 13.52, 13.53, 13.54, 13.55, 13.56, 13.57, 13.58, 13.59, 13.60, 13.61, 13.62, 13.63, 13.64, 13.65, 13.66, 13.67, 13.68, 13.69, 13.70, 13.71, 13.72, 13.73, 13.74, 13.75, 13.76, 13.77, 13.78, 13.79, 13.80, 13.81, 13.82, 13.83, 13.84, 13.85, 13.86, 13.87, 13.88, 13.89, 13.90, 13.91, 13.92, 13.93, 13.94, 13.95, 13.96, 13.97, 13.98, 13.99, 14.00, 14.01, 14.02, 14.03, 14.04, 14.05, 14.06, 14.07, 14.08, 14.09, 14.10, 14.11, 14.12, 14.13, 14.14, 14.15, 14.16, 14.17, 14.18, 14.19, 14.20, 14.21, 14.22, 14.23, 14.24, 14.25, 14.26, 14.27, 14.28, 14.29, 14.30, 14.31, 14.32, 14.33, 14.34, 14.35, 14.36, 14.37, 14.38, 14.39, 14.40, 14.41, 14.42, 14.43, 14.44, 14.45, 14.46, 14.47, 14.48, 14.49, 14.50, 14.51, 14.52, 14.53, 14.54, 14.55, 14.56, 14.57, 14.58, 14.59, 14.60, 14.61, 14.62, 14.63, 14.64, 14.65, 14.66, 14.67, 14.68, 14.69, 14.70, 14.71, 14.72, 14.73, 14.74, 14.75, 14.76, 14.77, 14.78, 14.79, 14.80, 14.81, 14.82, 14.83, 14.84, 14.85, 14.86, 14.87, 14.88, 14.89, 14.90, 14.91, 14.92, 14.93, 14.94, 14.95, 14.96, 14.97, 14.98, 14.99, 15.00, 15.01, 15.02, 15.03, 15.04, 15.05, 15.06, 15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17, 15.18, 15.19, 15.20, 15.21, 15.22, 15.23, 15.24, 15.25, 15.26, 15.27, 15.28, 15.29, 15.30, 15.31, 15.32, 15.33, 15.34, 15.35, 15.36, 15.37, 15.38, 15.39, 15.40, 15.41, 15.42, 15.43, 15.44, 15.45, 15.46, 15.47, 15.48, 15.49, 15.50, 15.51, 15.52, 15.53, 15.54, 15.55, 15.56, 15.57, 15.58, 15.59, 15.60, 15.61, 15.62, 15.63, 15.64, 15.65, 15.66, 15.67, 15.68, 15.69, 15.70, 15.71, 15.72, 15.73, 15.74, 15.75, 15.76, 15.77, 15.78, 15.79, 15.80, 15.81, 15.82, 15.83, 15.84, 15.85, 15.86, 15.87, 15.88, 15.89, 15.90, 15.91, 15.92, 15.93, 15.94, 15.95, 15.96, 15.97, 15.98, 15.99, 16.00, 16.01, 16.02, 16.03, 16.04, 16.05, 16.06, 16.07, 16.08, 16.09, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 16.18, 16.19, 16.20, 16.21, 16.22, 16.23, 16.24, 16.25, 16.26, 16.27, 16.28, 16.29, 16.30, 16.31, 16.32, 16.33, 16.34, 16.35, 16.36, 16.37, 16.38, 16.39, 16.40, 16.41, 16.42, 16.43, 16.44, 16.45, 16.46, 16.47, 16.48, 16.49, 16.50, 16.51, 16.52, 16.53, 16.54, 16.55, 16.56, 16.57, 16.58, 16.59, 16.60, 16.61, 16.62, 16.63, 16.64, 16.65, 16.66, 16.67, 16.68, 16.69, 16.70, 16.71, 16.72, 16.73, 16.74, 16.75, 16.76, 16.77, 16.78, 16.79, 16.80, 16.81, 16.82, 16.83, 16.84, 16.85, 16.86, 16.87, 16.88, 16.89, 16.90, 16.91, 16.92, 16.93, 16.94, 16.95, 16.96, 16.97, 16.98, 16.99, 17.00, 17.01, 17.02, 17.03, 17.04, 17.05, 17.06, 17.07, 17.08, 17.09, 17.10, 17.11, 17

- | Plot Size Acres | Radius Feet |
|-----------------|-------------|
| 1/160 | 9.31 |
| 1/120 | 10.75 |
| 1/100 | 11.78 |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.61
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	58.88

- 3) The number of plots needed to sample 2.5 percent of the area will be calculated employing the following formula:

Number of Plots equals 2.5 percent multiplied by Sample Area in acres divided by plot size.

- 4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within sixty (60) feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is sixty (60) feet from the boundary of the area to be sampled or the greatest distance possible where sixty (60) feet cannot be achieved.

- 5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

- 6) Calculate population levels as follows:

- A) Average number of live trees and/or shrubs per plot equals total number of live trees and/or shrubs divided by number of plots; and

- B) Number of live trees and/or shrubs per acre equals average number of live trees and/or shrubs per plot multiplied by plot size denominator.

- 7) Representatives of the Department or the Illinois Department of Conservation shall administer and conduct all sampling.

- d) Vegetative ground cover shall be measured by the following technique:

- 1) Twenty (20) random points shall be identified in the area to be tested.

- 2) A twenty (20) foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in ninety (90) degree increments until the entire twenty (20) foot length is within the boundary of the area to be tested or area not treated with the herbicide.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3) A measurement shall be taken at each two tenths (.2) foot increment directly above or below the tape.
- 4) Ground cover shall be determined to be present if any vegetation identified in Section 1816.17(a)(4) is measured at the increment.
- 5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

(Source: Amended at 20 Ill. Reg. 2027, effective JAN 19 1996)

Section 1816.133 Post-Mining Land Capability

- a) All disturbed areas shall be restored in a timely manner to a condition capable of supporting:

- 1) The uses which they were capable of supporting prior to any mining; or
- 2) Higher or better uses of which there is a reasonable likelihood of restoration: Provided that, no plan of restoration shall be approved unless use of the area as proposed does not:

- A) Present any actual or probable hazard to public health or safety;
- B) Pose any actual threat of diminution or pollution pursuant to Section 1816.41; or
- C) That the proposed land use following restoration is not beneficial to be impracticable or unresizable by the Department or determined by the Department to be inconsistent with land use policies and plans which are applicable, or to involve unreasonable delay in implementation. No restoration plan shall be approved if the proposed land use following reclamation is violative of other applicable law.

- b) The premining capability of land to which the post-mining land capability is compared shall be the capabilities that the land would have supported if it had not been previously mined and had been properly managed. The post-mining land capability for land that has been previously mined and not reclaimed shall be judged on the basis of the land capability that existed prior to any mining: provided that, if the land cannot be reclaimed to the land capability that existed prior to any mining because of the previously mined condition, the post-mining land capability shall be judged on the basis of the highest and the best capability that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining. Quantification of land capability is to be done on the basis of acreage summaries for each land capability category, as defined in 62 Ill. Adm. Code 1701.5. The total acreage for each land capability category should approximate the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

corresponding premining acreage. Changes in total acreage from one land capability class to another shall require approval in accordance with Section 1816.133(a)(2).

- c) In determining the capability of affected land, the Department shall use as a guideline the handbook entitled: Land Capability Classification, Agriculture Handbook No. 210, published by the Natural Resources Self Conservation Service of the U.S. Department of Agriculture. A copy of this handbook shall be on file with the Department and the Secretary of State. Interested persons may present views respecting the capability of affected lands in the due course of the Department's review of the permit application.

(Source: Amended at 20 Ill. Reg. 2027, effective JAN 19 1996)

Section 1816.151 Primary Roads

Primary roads shall meet the requirements of Section 1816.150 and the additional requirements of this Section.

- a) Certification. The construction or reconstruction of primary roads shall be certified in a report submitted to the Department by a qualified registered professional engineer within thirty (30) days after completion of construction. For purposes of this Section, completion of construction shall mean the road is being used for its intended purpose as determined by the Department. The professional engineer shall be experienced in the design and construction of roads, as evidenced by the placement of a registered professional engineer's seal on the report. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

- b) Safety Factor. Each primary road embankment shall be shown to have a minimum static factor of safety of 1.3, or shall be designed in compliance with the following design standards:

- 1) The embankment foundation area shall be cleared of all organic material and the entire foundation surface shall be scarified;
- 2) If the natural slope of the foundation as measured at right angles to the roadway center line is steeper than 8H:1V, the embankment shall be benched into the existing slope beginning at the embankment toe and then filled with compacted level lifts;
- 3) The embankment fill material shall be free of sod, large rocks and other large vegetative matter;
- 4) The fill shall be brought up in horizontal layers of such thickness as required to facilitate compaction in accordance with prudent construction standards;
- 5) The moisture content of the fill material shall be sufficient to secure proper compaction;
- 6) The side slopes of the embankment shall be no steeper than 2H:1V;
- 7) Maximum fill height shall be twenty-five (25) feet as measured

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

from natural ground at the downstream toe to the top of the embankment;

8) Embankments shall have a minimum top width of (H + 35)/3, where "H" is the embankment height as measured from natural ground at the downstream toe to the top of the embankment, and shall be adequate for the intended use.

- c) Location.

1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Department as temporary routes during periods of road construction.

- d) Drainage control. In accordance with the approved plan:

1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross-drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Department as necessary to ensure proper drainage control design in accordance with prudent engineering practices;

2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;

3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

5) Natural stream channels shall not be altered or relocated without the prior approval of the Department in accordance with applicable sections of 62 Ill. Adm. Code 1816.41 through 1816.43 and 1816.57; and

6) Except as provided in subsection (c)(2) above, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Department shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.

e) Surfacing. Primary roads shall be surfaced with material approved by the Department as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(Source: Amended at 20 Ill. Reg. 2027, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Section 1816.APPENDIX A Agricultural Lands Productivity Formula

Section 1816.190 Affected Acreage Map

SOIL MASTER FILE

The Soil Master File of the Agricultural Lands Productivity Formula contains a comprehensive list of the soil mapping units currently recorded in Illinois. The Soil Master File provides the soil mapping unit number, common mapping name, and the high level of management yields for corn, soybeans, wheat, oats and mixed hay. The Soil Master File is created annually by the Illinois Department of Agriculture, pursuant to ~~Ill-Rev-Stat-1989-061-127~~ ~~Per-49-38 20 ILCS 205/40.38.~~

a) On or before September 1 of each year every permit holder shall submit to the Department ~~and to the county clerk~~ reports and maps of affected areas.

b) Two (2) copies, plus one (1) additional copy for each county in which the Permit is located, of the reports and ~~the forms shall be executed and duplicate maps shall be attached~~ submitted showing the area affected during the fiscal year just ended. One of the copies submitted shall contain the original signature of a ~~county official~~. The Department shall require the map to be executed by an engineer registered in accordance with the ~~Illinois Professional Engineering Act of 1982 (205 ILCS 121)~~ or a land surveyor registered in accordance with the ~~Land Surveyors Act (Ill-Rev-Stat-1989-061-127)~~ ~~Illinois Professional Land Surveyor Act of 1999 (225 ILCS 1307)~~. The Department shall then forward one copy to the county clerk.

Additional components of the Soil Master File are as follows:

c) The map shall be placed as a continuous map, so that the area affected each year may be added and indicated on the map by the dates it was affected. Reports as required by Section 1816.190 shall be submitted to the Department on forms provided by the Department. Map scales shall be in accordance with 62 Ill. Adm. Code 1779.15 1779.34e)(1).

- 1) County number - identifies soils unique to a county. County number also distinguishes between soils with the same name in different counties but with unique soil properties and yields. County numbers are identified in Section 1816.Table C County Numbering System.

d) All maps shall show sections, township, range and county lines coming within the scope of the map; access to the area from the nearest public road and all weather roads within the mined area; and a title containing name of the operator, address, scale of the map, by whom the map was drawn, name of the surveyor or engineer.

- 2) Variance code - physical conditions which would cause similar soil types to produce radically different yields. Variance code is explained in Section 1816.Table B Soil Variance Code.

(Source: Amended at 20 Ill. Reg. **2027**, effective **JAN 19 1996**)

- 3) Switch code - identifies a point at which a particular soil at a given slope and/or erosion category becomes either a new soil, a complex soil or moves from a favorable to unfavorable subsoil. The alphanumeric switch code is the new slope and erosion code.

(Source: Amended at 20 Ill. Reg. **2027**, effective **JAN 19 1996**)

- 4) Subsoil type - either #1 favorable, or #2 unfavorable subsoil condition. Percent of adjustment that will be applied to both the high management yield in subsoil conditions provided in Section 1816.Table A - Subsoil Adjustments.

(Source: Amended at 20 Ill. Reg. **2027**, effective **JAN 19 1996**)

- 5) Slope and erosion - this category provides adjusted high management yields for slope and erosion groups for each soil series for each crop in the Agricultural Lands Productivity Formula.

(Source: Amended at 20 Ill. Reg. **2027**, effective **JAN 19 1996**)

COUNTY CROPPED ACREAGE FILE

The Agricultural Lands Productivity Formula requires that the number of cropped acres by soil mapping unit be calculated for each county. These calculations are generated by computer using the following formula:

$$\begin{array}{rcl} \text{Total acres per} & \text{percent of} & \text{acres per} \\ \text{soil type per} & \times & \text{total acreage} & = & \text{soil type} \\ \text{county} & & \text{cropped} & & \text{cropped} \end{array}$$

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

The percent of total acreage cropped per soil type will be provided by County Soil and Water Conservation Districts. Any changes to these figures must be approved by the County Soil and Water Conservation District Board with a certified copy of all changes submitted by August 15 of each year to the Illinois Department of Agriculture.

The County Cropped Acreage File reflects the total acres of each soil type per county, percent of acreage cropped, and the computed figure of total cropped acres by soil type in each county. The "total cropped acres" figures are carried forward to the County Average Yield File. The County Cropped Acreage File is created annually by the Illinois Department of Agriculture, pursuant to Ill. Rev. Stat. 1989-CA-1277 and 20 ILCS 205-10.28.

COUNTY AVERAGE YIELD FILE

The next procedure of the Agricultural Lands Productivity Formula is to equate annual county crop yield data to the soils derived in the "County Cropped Acreage File". Section 1816, Exhibit A and the following paragraphs summarize the procedure for calculating the crop yield for each soil mapping unit.

Column A reflects the soil mapping units as they appear on a county by county basis.

Column B is the number of acres cropped in a county per soil type as recorded in the County Cropped Acreage File. These cropped acreage figures are then added together to give a total number of acres cropped for the county.

Column C is the percent of the acreage represented by each soil type when compared with the total in Column B (Column B = total acres in soil mapping unit times the percent of acres cropped in the county by mapping unit).

The number of acres planted in grain (Column D) is calculated by multiplying the percent of each soil mapping unit in the county (Column C) by the total acres in the county harvested for corn, soybeans, wheat, oats, and mixed hay. (See asterisk in Section 1816, Exhibit A.) The purpose of this calculation is to estimate the number of acres harvested from each of the particular soil mapping units. It is assumed that 25% of the total corn, soybean, wheat, oat and mixed hay acreage was planted on that particular soil mapping unit. Therefore, the "grain acres" are distributed on the soil mapping units based upon the percent of acres in each soil mapping unit.

Column E is the adjusted yield information for each crop, which comes from the Soil Master File.

Column F is a derived high management production (Figure) obtained by multiplying the figures in Column D times the figures in Column E. This production figure will normally exceed actual production because the high level

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

management yield is used. The purpose of using the high management production is to derive a weighted average high management yield, which is, the total high management production (Column F) divided by the total grain acres in the county (Column D). The weighted high management yield figure will be used to derive a "factor" as described below:

$$\text{Factor} = \frac{\text{Official County Crop Yield}}{\text{Weighted High Management Yield}}$$

Column G results from the multiplication of the above factor times the high level management yield of each soil mapping unit (Column E). The result is a yield which represents the average yield in either bushels per acre or tons per acre in the county for that year and crop.

PERMIT SPECIFICS
YIELD STANDARD

- After completing calculations for the projected yield of the test year in question, a yield standard for each capability class, in the disturbed area, in the pit permit area must be calculated. The yield standard, which is also applicable to high capability and limited capability land, will be calculated in a manner similar to prime farmland. Section 1816.16(a)(3)(c) will be calculated in the following manner:
 - The number of prime farmland acres in each soil mapping unit will be divided by the total prime farmland acres in the pit mine permit area to obtain a weighted proportion for each soil type. The weighted proportion of each prime farmland soil mapping unit in the pit permit area, relative to the total prime farmland acres in the pit permit area, will be multiplied times the projected yield for the pre-mining soil types. The weighted final yield for each prime farmland soil type in a pit mine permit area will be added together and the total becomes the yield requirement for the pit permit area.
 - After mining operations have ceased, the department shall recalculate the yield standards for the pit based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity subsequent to the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated and applied to productivity fields tested after the recalculation.

AGRICULTURAL LANDS PRODUCTIVITY FORMULA
SAMPLING METHOD

The sampling methodology that the Illinois Department of Agriculture or the Illinois Department of Natural Resources Mines and Minerals will use to gather the data needed to determine if productivity has been returned to reclaimed mine land is summarized below for corn, soybeans, wheat, oats, sorghum, and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

mixed hay.

This sampling methodology requires an operator to submit by February 15 of each year, a scale drawing or aerial photo delineating specific field boundaries and type of crop which is to be sampled for proof of productivity for the current crop year. Each scale drawing and photo submitted shall include a field numbering scheme and the total acreage for each field on which sampling is being requested. In addition, the scaled drawing shall be no less than 1 inch equals 500 feet (1:500) or greater than 1 inch equals 100 feet (1:100). The February 15 annual submittal may be amended by the operator until July 15. Each such amendment shall contain a written explanation of changes from the original submittal and an aerial photograph or scaled drawing reflecting the corrected sampling submittal.

The determination of sample points within a specific field will be made on the basis of a grid overlay scheme with the location of sample points on the grid randomly generated by computer. An intentional bias of fifty feet (50') will be introduced to all field boundaries to remove the potential that sampling points may fall in turn around areas, or areas where contiguous soil reconstruction may cause field boundaries to not be indicative of whole field productivity.

The minimum acceptable number of samples to be taken relative to field size is shown in Section 1816, Table D sample points per crop acres, with fields of four acres or less to be sampled in their entirety with yields determined by harvest weight. Sample selections will take place using the following guidelines.

The Illinois Department of Agriculture may elect to increase the minimum number of acceptable sample points per field acres. Some factors which will be considered in determining whether to increase the number of sample points are as follows, but not limited to:

1. Operator requests additional sample points for specific fields.
2. The use of different hybrids in one field.
3. Contour changes within one field which would alter a yield.
4. A coefficient of variation greater than 15%.

The Department and the Illinois Department of Agriculture shall jointly request the operator to verify yields by harvest weight (e.g., scale tickets) for reasons, including but not limited to:

1. Verification of random sampling results.
2. Availability of sample enumerators.
3. Backlog of sample processing at the IDOA-lab.

In each such case, the certified harvest yield adjusted, to optimum moisture content, will become the comparison yield for the Agricultural Lands

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Productivity Formula target yield.

CORN SAMPLING TECHNIQUE

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 - After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest corn stalk to the toe of your shoe. Measure 15 feet of the corn row starting at the first stake and placing a second stake at the 15 foot mark.
- Step 4 - Determine the 3rd and 4th ears of the first row starting with the first stalk of corn. Tag these ears with a rubber band. If there are less than four ears in the first row, the last ear and the next to last ear should be tagged. In the case where a stalk has more than one ear, count the top ear first. (Note: An ear of corn is defined as a cob having at least one kernel. The tagged ears will be used to determine the moisture content, and at least 250 grams of grain are need. If it does not appear that the 3rd and 4th ears will supply 250 grams of grain for a moisture test, then the 5th, 6th and/or 7th ear should be included until at least 250 grams of corn is collected.)
- Step 5 - Husk all ears in Row 1 within the fifteen foot segment of the sample. Husk the ears and snap the shank off as cleanly as possible. Be sure to include any ears tagged for moisture testing.
- Step 6 - Weigh the husked ears using a balance scale - obtain field weight in pounds.
- Step 7 - After weighing, put ears tagged for moisture testing into polyethylene bags and seal. Mark the bag with the appropriate field number (as supplied by the mine operator), and sample identification number.
- Step 8 - Measure on a perpendicular line from the stalks in row one (1) to the stalks in row five (5). Divide this measured distance by four (4) to determine the average row width.
- Step 9 - Repeat Steps 3 through 8 for each additional random sampling point coordinate.
- Step 10 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of corn samples. Gross yield is determined by deducting the adjustment for moisture content of shelled corn from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield} = \frac{A \times B \times C}{D} \div \frac{E \times F}{(\text{bu}/\text{ac})}$$

Where: A = Field weight of husked ears of corn from 15 feet of row x 2 (2 Rows x 15 feet)

B = Weight of shelled grain at time of moisture test

C = Percent moisture in grain corrected to 15.5%

$$= 1.0 - \left(\frac{\text{moisture in grain}}{100} \right) \times .845$$

D = Weight of ears of Corn used for moisture determination

E = Row Factor

Area or percent of Acre	30" = 0.001722
Sampled with 30 feet	36" = 0.002066
Row (2 rows x 15 feet)	38" = 0.002181
	40" = 0.002295

and .845 = The standard moisture content conversion factor of corn per bushel (1.0 - (15.5%/100))

F = Weight of standard bushel of corn = 56 lbs.

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SOYBEAN SAMPLING TECHNIQUE
DRILLED OR PLANTED BEANS (>8" ROWS)

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual locations.

Step 3 - After taking the last of the required paces to the first sampling point, mark the closest plant to the toe of your foot. Place a flag at the point that you have just marked. From the point of this flag, and in the direction of travel from where the last pace was counted, measure a distance of six feet of plant row and place a flag at the six foot mark. Starting from the row just identified, measure the distance across five rows. This distance, from row one to row five, divided by four row spaces gives the average row width.

Step 4 - Strip all the soybean pods from all the plants in the 6 foot sample row. Pick up any loose pods or beans found on the ground at the base of these plants. Deposit all the pods, beans and blank pods, into a paper sack. Mark the sack with the appropriate field number (as provided by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is less than the 250 grams needed for the moisture test, sufficient grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of soybean samples. Gross yield is determined by deducting the adjustment of moisture content of the soybean sample from the harvest weight. Moisture content determinations will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

Gross Yield

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Where: A = Sample wt. of wheat in grams
B = 1.0 - (% moisture in grain, 10%)
C = Conversion factor
= $\frac{1000 \text{ gms.} \times 100 \text{ sq. ft.}}{(60 \text{ lbs.} \times 453.6 \text{ gms.} \times 1.0 \text{ sq. ft.})}$
= .4940 bu./gm. acre
D = .980 = The standard moisture content conversion factor of wheat per bushel (1.0 - .02% loss)

After calculation of the gross yield, the harvest loss will be subtracted from the gross yield to obtain a net yield per acre. Harvest loss is the difference between actual grain yield and what is raised from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

WHEAT SAMPLING TECHNIQUES
(Dissectible Rows)

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.
- Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sample lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two rows to be sampled. (Total 3 rows) Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e., the distance in row 1 to 5, 4).

Step 4 - Clip all wheat heads from within the square outlined by the sampling frame. The wheat heads should be clipped approximately 1/2 inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss.

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.
- Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sample lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to find the other two sides.

Step 4 - Clip all wheat heads from within the square outlined by the sampling frame. The wheat heads should be clipped approximately 1/2 inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C).

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content. Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre} = \frac{A \times B \times C}{D}$$

(bu./acre)

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

(Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinates.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre} = \frac{(A \times B \times C)}{D}$$

(bu/acre)

Where: A = Sample wt. of wheat in grams

$$B = 1.0 - (\% \text{ moisture in grain}/100\%)$$

C = Conversion factor

$$= \frac{(60 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times \text{no. of rows harvested} \times 1.3 \text{ ft} \times \text{average row spacing (ft)})}{4356 \text{ sq. ft./ac}}$$

$$D = .83 = \frac{\text{The standard moisture content conversion factor of wheat per bushel} (1.0 - (12\% / 100\%))$$

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from the field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

OATS SAMPLING TECHNIQUE
(ROWS <3")

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 feet sampling lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stakes (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to find the other two sides.

Step 4 - Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately 1.2 inch below the bottom of the head.

Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{A \times B \times C}{D}$$

Where: A = Sample weight of oats in grams

$$B = 1.0 - (\% \text{ moisture in grain}/100\%)$$

C = Conversion factor

$$= \frac{43560 \text{ sq. ft./ac.}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms./lb} \times 3.24 \text{ sq. ft.})}$$

$$= .9262 \text{ bu/gm acre}$$

$$D = .850 = \frac{\text{The standard moisture content conversion factor of oats}}{\text{per bushel } (1.0 - (\% \text{ moisture}/100\%))}$$

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

OATS SAMPLING TECHNIQUE
(Discernible Rows)

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 feet sampling lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two rows to be sampled. Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e. the distance in row 1 to 5 / 4).

Step 4 - Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately 1/2 inch below

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the bottom of the head. Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.

$$\text{Gross Yield} = \text{Harvest Weight adjusted for moisture content}$$

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{A \times B \times C}{D}$$

Where: A = Sample weight of oats in grams.

$$B = 1.0 - (\% \text{ moisture in grain}/100\%)$$

C = Conversion factor

$$= \frac{43560 \text{ sq. ft./ac.}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms./lb} \times \text{number of rows harvested} \times 1.8 \text{ ft.} \times \text{average row spacing (ft.)})}$$

$$D = .850 = \frac{\text{The standard moisture content conversion factor of oats}}{\text{per bushel } (1.0 - (\% \text{ moisture}/100\%))}$$

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

productivity.

SORGHUM SAMPLING TECHNIQUE

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 - After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest sorghum plant to the toe of your shoe. Measure ten (10) feet of the plant row starting at the first stake and placing a second stake at the ten (10) foot mark. Mark the first five (5) heads and the last five (5) heads with rubber bands. These heads will be used for moisture determination. One sample unit will equal one (1) ten (10) foot sorghum row section.
- Step 4 - Clip all grain heads in Row 1 within the ten (10) foot segment of the sample unit.
- Step 5 - Weigh the clipped grain heads using a balance scale - obtain field weight to the nearest tenth (0.1) of a pound. Place any grain heads collected for moisture determination into sealed polyethylene bags. Mark the bags with the appropriate field number (as supplied by the mine operator), and sample identification number.
- Step 6 - Measure on a perpendicular line from the plants in row one (1) to the plants in row five (5). Divide this measured distance by four (4) to determine the average row width.
- Step 7 - Repeat Steps 3 through 6 for each additional random sampling point coordinate.
- Step 8 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of sorghum samples. Gross yield is determined by deducting the adjustment for moisture content of the threshed grain from the harvest weight. Moisture content of the grain samples will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield} = \frac{(A \times B \times C) \times D}{(E \times F)}$$

Where: A = Field weight of grain heads of sorghum from ten (10) feet of row x 2 (2 rows x 10 feet)

B = Weight of threshold grain at time of moisture test

C = Percent moisture in grain corrected to 13.0%

D = $1.0 - \left(\frac{\% \text{ moisture in grain}}{100} \right) \times .87$

E = Weight of grain head and seeds used for moisture determination

F = Row Factor 28" = .001070

Area or Percent of Acre 30" = .001148

Sampled with 20 feet of 36" = .001377

Row (2 rows x 10 feet) 38" = .001455

40" = .001529

F = 56 lbs (weight of standard bushel of sorghum)

and .870 = The standard moisture content conversion factor of sorghum per bushel (1.0 - .130)

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

MIXED HAY SAMPLING TECHNIQUE

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame perpendicular to the toe of your shoe, where applicable, crossing crop rows at a right angle. Mark the two ends of the sampling frame with the stakes just inside the 3 foot sampling lines. Continue to lay out the sample area in the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to locate the other two sides. In all cases, the layout of the sample area shall be consistent for each randomly identified sample point.

Step 4 - Clip all hay stalks from within the square outlined by the sampling frame. The hay stalks should be uniformly clipped to an approximate height of two (2) inches above ground level.

Step 5 - Quarter the collected sample and seal in a suitable poly bag sample container. Mark the sample container with the appropriate field number (as supplied by the meter operator), and sample identification number. Secure the sample container to prevent any sample loss. (Note: It is important when sampling hay that collected samples be chilled and transported in a container capable of sustaining the chilled condition. Hay deteriorates when allowed to heat up.)

Step 6 - Repeat Steps 3 and 4 for each additional random sampling point coordinates.

Step 7 - Send or deliver to the Illinois Department of Agriculture any hay sample collected for moisture analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

* If a field moisture meter is used, steps 5 and 7 shall be eliminated and the following explanations for items A and D will be substituted.

A. Dry matter weight = harvest weight - percent moisture content determined by field moisture tests.

D. Percent moisture in hay at time of harvest determined by field moisture test.

The following method will be used for determination of gross yield of mixed hay samples. Gross yield is determined by deducting the adjustment for moisture content of the mixed hay sample from the harvest weight. Moisture content of mixed hay samples will be determined by lab analysis.

$$\text{Gross Yield} = \text{Harvest weight adjusted for moisture content} \\ \text{Gross Yield Per Acre} = \frac{(A \times D)}{(C \times B \times E)}$$

Where: A = Field weight or harvested weight of mixed hay in pounds

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- B = Plot size (sq. ft./1356) sq. ft./ac.) or number of acres
- C = Conversion factor from lbs. to tons (i.e., 1 ton = 2000 pounds)
- D = Dry matter content of harvested hay (100% - % moisture in hay)
- E = Dry matter content of hay standard = 100% - 1%

The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity. The annual harvest will be determined by the cumulative yields of each cutting.

HAY SAMPLING
BRIED OR GREEN CHOPPED HAY

To be assured that sampling results are reliable, it is necessary to obtain accurate bale counts, accurate weights, and accurate moisture readings. Reading and following the instructions for the equipment that has been provided will for the most part insure correct interpretation of weights and moisture meter results. Accurate figures will be developed and verified by the Illinois Department of Agriculture. Verification of bale count is an area to be further elaborated on.

Depending on the use of the hay, an enumerator may be dealing with large round bales, small square bales or wagons of green chopped hay. In the case of large round bales, the enumerator need not be present during the baling of all of the product. If the operator provides a bale count for each field, the enumerator must provide a verification of the count. This can be done by physically visiting the field during baling and taking a bale count to compare with the count that will be provided by the operator. The verification of count can also be done by visiting the field and recording the counter number prior to baling, and then again reading the meter when each field is finished. It is not necessary to observe all of the baling. If an operator has multiple fields to pull weight samples from he may wish to do this on a single day to make his operation run in a more efficient manner. This is perfectly acceptable. The enumerator may identify sample bales just prior to weighing, and perform moisture and temperature tests at that time. Random verification of bale counts will discourage any impropriety on the part of the operator, and eliminate the need for constant observation.

This procedure will also work well for weighing and counting wagons of green chopped hay. The enumerator should perform random verification of truck weights and collect weight tickers for each field.

The operator should be reminded to provide the exact number of trucks coming from each field and the weight of each truck. Random verification of truck counts for individual fields is also encouraged. This will make a good comparison for the information received from the operator.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

CORN

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	8
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	28

SOYBEANS

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	10
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	26

WHEAT - OATS

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	6
40 - 279 acres	8
280 - 639 acres	10
640 acres or more	14

SORGHUM

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	10
40 - 279 acres	16
280 - 639 acres	28
640 acres or more	40

MIXED GRASS

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	5
40 - 279 acres	10
280 - 639 acres	20

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

640 acres or more requires one (1) sample for each additional 35 acres

SPECIAL PROBLEMS IN SAMPLE LAYOUT

1. It is possible for a sample grid coordinate to fall on areas within the field boundary which were not planted to crops (i.e., grass waterway, roadway, etc.) When this situation occurs, stop the pace count at the start of such an area and resume the count on the other side of the area.
2. If a blank area is crossed which was planted to crops, the pace count should be continued through this area. Usually such areas are due to poor germination, insects, standing water, etc. (if the sample area falls in this planted area which is blank, then a zero yield is established).
3. If a sample coordinate falls partly in a blank area which was not planted for harvest, move the sample area ahead until it is wholly on acreage planted to the crop being sampled. The sample point should begin one pace from the edge of the blank area.

(Source: Amended at 20 Ill. Reg. 2027.1, effective
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permit Applications--Minimum Requirements for Legal, Financial, Compliance, and Related Information
- 2) Code Citation: 62 Ill. Adm. Code 1778
- 3) Section Number: 1778.15
Adopted Action: Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1627 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
The Chapter heading has been changed to "Department of Natural Resources".
In the Authority Note, the Ill. Rev. Stat. cite has been stricken.
Section 1778.15(e), "within" has been changed to "in".
- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect?
No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s):
Section 1778.15 sets forth right of entry information requirements for permit applications. Subsections (a) and (e) have been amended in order to eliminate the burdensome requirement for underground coal mine operators to document their legal right to enter and mine for underground mining areas. Right of entry information will still be required for surface facilities at underground mines. New subsection (f) requires

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- underground mine operations to certify that necessary mining rights will be obtained prior to mining.
- 16) Information and questions regarding these adopted amendments should be directed to:
Name: Karen Jacobs
Legal Counsel:
Address: 524 South Second St.
Springfield, IL 62701-1781
Telephone: (217) 782-1903

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1778
PERMIT APPLICATIONS--MINIMUM REQUIREMENTS
FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

- Section
1778.4 Responsibility (Repeated)
1778.11 Applicability (Repeated)
1778.13 Identification of Interests
1778.14 Violation Information
1778.15 Right of Entry Information
1778.16 Relationship to Areas Designated Unfavorable for Mining
1778.17 Permit Term
1778.18 Insurance
1778.20 Identification of Location of Public Office for Filing of Application (Repeated)

- 1778.21 Proof of Publication
1778.22 Facilities or Structures Used in Common

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [25 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9348; amended at 11 Ill. Reg. 8368, effective July 1, 1987; amended at 14 Ill. Reg. 11873, effective January 1, 1991; amended at 15 Ill. Reg. 17265, effective January 1, 1992; amended at 17 Ill. Reg. 11027, effective July 1, 1993; amended at 20 Ill. Reg. **2080**, effective **JAN 1 9 1996**

Section 1778.15 Right of Entry Information

- a) An application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface coal mining and reclamation operations in the permit area ~~and in the shadow area~~ and shall state whether that right is the subject of pending litigation ~~however, no such information will be required for surface estates which involve underground mine workings and which not be disturbed by surface facilities~~. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant ~~including the right to succeed within the shadow area~~. The Department will not be liable in any way if the claimed right to enter and begin surface mining activities has been, or is later, adjudicated invalid by a court of competent jurisdiction. Documents shall not be submitted to the Department in lieu of the description identified in this subsection; however, the Department may

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

subsequently require the applicant to provide such information during the permitting process.

- b) For surface mining activities where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area:
- 1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;
 - 2) A copy of the conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or
 - 3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.
- c) Nothing in this Section shall be construed to afford the Department the authority to adjudicate property title disputes.
- d) In satisfaction of the requirements of this Section the Department may accept, as part of a permit application, a statement, notarized and attested to the truth of the statement, signed by an attorney licensed to practice law in the State of Illinois, the applicant has the legal right to enter and commence the surface coal mining and reclamation operations proposed in the application. The statement shall identify the documents upon which it is based by type and date of execution, identify the specific lands to which each document pertains, and explain the legal rights claimed by the applicant. If subsection (b) applies, such statement shall also include copies of the documents as required in subsections (b)(1) through (3).
- e) An application in which the applicant claims to have valid existing rights to conduct surface coal mining operations, including planned subsidence operations, in ~~within~~ an area where mining is prohibited or limited under 62 Ill. Adm. Code 1761.11 shall contain the necessary information and meet the requirements of Section 1778.16 and 62 Ill. Adm. Code 1761.12.
- f) All applications for shadow area shall contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.

(Source: Amended at 20 Ill. Reg. **2080**, effective **JAN 1 9 1996**)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Requirements for Coal Exploration
- 2) Code Citation: 62 Ill. Adm. Code 1772
- 3) Section Numbers

1772.11	Adopted Action
1772.12	Amend
	Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1631 - February 17, 1995
- 10) Has JCQR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:

The Chapter heading has been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1772.11(a), Section 1772.12(a), Section 1772.12(b)(7), and Section 1772.12(d), "two hundred and fifty" and the parentheses around "250" have been stricken.

In Section 1772.11(a), "Department of Mines and Minerals" has been changed to "Department of Natural Resources, Office of Mines and Minerals".

12) Have all changes agreed upon by JCQR and the agency been made as indicated in the agreement letter issued by JCQR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect?
No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s):

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Part 1772 sets forth requirements for coal exploration. Section 1772.11(b)(5) has been amended in order to clarify that specific forms are required to be submitted with a coal exploration notice only if such forms are required by the Department's Oil and Gas Division. The revision is necessary because certain activities considered to be coal exploration by the Department do not require the submittal of forms to the Oil and Gas Division.

The revision to Section 1772.12(d)(2) corrects the wording of the regulation and makes it consistent with its federal counterpart. Subsection (d)(2)(C) is being amended for clarity.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Karen Jacobs
 Legal Counsel
 Address: 524 South Second St.
 Springfield, IL 62701-1787
 Telephone: (217) 782-1300

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTSTITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALSPART 1772
REQUIREMENTS FOR COAL EXPLORATION

Section	Scope and Purpose
1772.11	Notice Requirements for Exploration Removing 250 Tons of Coal or Less
1772.12	Permit Requirements for Exploration Removing More Than 250 Tons of Coal
1772.13	Coal Exploration Compliance Duties
1772.14	Requirements for Commercial Use or Sale
1772.15	Public Availability of Information

AUTHORITY: Implementing and authorized by Sections 5.01, 5.02, 5.03 and 9.01 of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720.5.01, 5.02, 5.03 and 9.01).

SOURCE: Adopted at 11 Ill. Reg. 9385, effective July 1, 1987; amended at 14 Ill. Reg. 11890, effective January 1, 1991; amended at 15 Ill. Reg. 17289, effective January 1, 1992; amended at 17 Ill. Reg. 11058, effective July 1, 1993; amended at 20 Ill. Reg. 2084, effective JAN 19 1996.

Section 1772.11 Notice Requirements for Exploration Removing 250 Tons of Coal or Less

- a) Any person who intends to conduct coal exploration operations outside the permit area during which less than ~~two-hundred-and-fifty~~ 250 tons of coal will be removed shall prior to conducting the exploration, file with the Illinois Department of Natural Resources, Office of Mines and Minerals (Department) a written notice of intention to explore.
- b) The notice shall include:
- 1) The name, address, and telephone number of the person seeking to explore;
 - 2) The name, address, and telephone number of the person's representative who will be present at, and responsible for, conducting the exploration activities;
 - 3) A statement of the period of intended exploration, and a precise narrative or other specific description of the location of the intended exploration which identifies which Sections will be affected;
 - 4) A description of the method of exploration to be used and the practices that will be followed to protect the environment and to reclaim the area from adverse impacts of the exploration activities in accordance with the applicable requirements of 62

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Ill. Adm. Code 1215.

- 5) In addition, the notice shall include a copy of a fully executed "Application for Test Hole Permit" (Form OG-7) or "Test Hole Record and Plugging Affidavit" (Form OG-9) if required by the Oil and Gas Division of the Department for the proposed activities. Forms are available from the Oil and Gas Division of the Department which will supervise closure in accordance with 62 Ill. Adm. Code 240.

- c) A notice of intention to explore is not an application for a permit. (Source: Amended at 20 Ill. Reg. 2084, effective JAN 19 1996.)

Section 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

- a) Any person who intends to conduct coal exploration outside a permit area during which more than ~~two-hundred-and-fifty~~ 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under 62 Ill. Adm. Code 1215, paragraph 1764 shall before conducting the exploration submit an application and obtain written approval from the Department in an exploration permit. Each application for an exploration permit shall contain, at a minimum, the following information:

- 1) The name, address, and telephone number of the applicant;
- 2) The name, address, and telephone number of the applicant's representative who will be present at, and be responsible for, conducting the exploration;
- 3) A narrative and map describing the proposed exploration area;
- 4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;
- 5) An estimated time table for conducting and completing each phase of the exploration and reclamation;
- 6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amounts;
- 7) A statement of why extraction of more than ~~two-hundred~~ and 250 tons of coal is necessary for exploration;
- 8) A description of:
 - A) Cultural or historical resources listed on the National Register of Historic Places;
 - B) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places;
 - C) Known archaeological resources located within the proposed exploration area; and
 - D) Any other information which the Department may require regarding known or unknown historic or archaeological resources, based upon consultation with the Illinois State Historic Preservation Agency;

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

- 9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) identified within the proposed exploration area;
- 10) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1815;
- 11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;
- 12) A map or maps at a scale of 1:24,000 or larger, showing the areas of the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; location of excavated earth or waste material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and
- 13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.
- c) Public notice of the application and opportunity to comment shall be provided as follows:
- 1) Within five (5) days, the applicant shall provide public notice of the filing of an administratively complete application with the Department in a newspaper of general circulation which is on the Department's list of approved newspapers in the county of the proposed exploration area;
 - 2) The public notice shall state the name and address of the person seeking approval, the date of filing of the application, the address of the Department where written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of exploration. In no case shall the public comment period be less than thirty (30) days;
 - 3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within the specified public comment period.
- d) Decision on an application for exploration removing more than two hundred and fifty (250) tons of coal.
- 1) The Department shall act upon an administratively complete application for a coal exploration permit and any written comments within sixty (60) days after the close of the public comment period. The approval of a coal exploration permit may be based only on a complete and accurate application.
 - 2) The Department shall approve a complete and accurate application

for a coal exploration permit application filed in accordance with this part, if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will:

A) Be conducted in accordance with the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) (Act), 62 Ill. Adm. Code 1815, this part and the regulatory program.

B) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species as defined in Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532); and

C) Not adversely affect any cultural or historic resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. 473 et seq., 1976, Supp. V), unless the proposed exploration has been approved by the Department and the agency with jurisdiction over State Historic Preservation Illinois Historic Preservation Agency.

3) Terms of approval. Each approval issued by the Department shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with the Act, this part, 62 Ill. Adm. Code 1815, and the regulatory program.

e) Notice and review.

1) The Department shall notify the applicant, the appropriate local government officials, and other commenters on the application in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the Department at a public office in the vicinity of the exploration operations.

2) Any person with an interest which is or may be adversely affected by a decision of the Department pursuant to subsection (e)(1) above, shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1817.3.

(Source: Amended at 20 Ill. Reg. 2084, effective

JAN 19 1996

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

1) Heading of the Part: Requirements for Permits and Permit Processing

2) Code Citation: 62 Ill. Adm. Code 1773

3) Section Numbers Addressed Action

1773.15	Amend
1773.20	Amend
1773.21	Amend
1773.22	New
1773.23	New
1773.24	New
1773.25	New

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amendments: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date filed in Agency's Principal Office: January 19, 1996

9) Notice of proposed amendments published in Illinois Register: 19 Ill. Reg. 1637 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

In Table of Contents, 1773.24, after "Control" insert "Links".

In Section 1773.15(b)(1), "62 Ill. Adm. Code" has been changed to "Sections"; a comma has been added after the word "when"; Section 1773.15(d), "Section 1773" has been changed to "this Part"

In Section 1773.20(c)(4), the second "rescind" has been changed to "suspend".

In Section 1773.23(a), "1773.22(b)" has been changed to "1773.22"; in Section 1773.23(b)(2)(B), "1773.15(b)" has been changed to "1773.15(b)(1)".

In Section 1773.24 heading, "Links" has been added between "Control" and "Shown"; Section 1773.24(a)(1), "subsections" has been changed to "30 CFR

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

1773.24; and "below" has been deleted; "Section 1773.25" has been replaced with "30 CFR 1773.25".

In Section 1773.24(a)(2), "subsections" has been changed to "30 CFR 1773.24"; "below" has been deleted; in Section 1773.24(a)(3), "the State program for the State that issued the violation notice" has been replaced with "subsections (b) through (d) below and Section 1773.25"; in Section 1773.24(b), "federal" has been replaced with "state"; "(a)(1) or (a)(2)" has been replaced with "(a)(3)"; "to OSM, addressed to the Chief of the AVS Office, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240" has been deleted.

In Section 1773.24(c), "OSM" has been replaced with "The Department"; "30 CFR 1773.15(b)(1)" with "Section 1773.15(b)(1)".

In Section 1773.24(d)(1), "OSM" has been replaced with "the Department"; in the last sentence, "the Department" has been changed to "OSM"; in Section 1773.24(d)(2), "OSM" has been changed to "the Department"; and "the Department" has been changed to "OSM"; in Section 1773.24(d)(3), "OSM" has been changed to "the Department"; Section 1773.24(d)(4), "OSM's" has been changed to "the Department"; and "to the Department of the Interior's Office of Hearings and Appeals"; Section 1773.24(d)(4), "43 CFR 4.1380 through 4.1387" has been replaced with "62 Ill. Adm. Code 1847.3"; "OSM's" has been changed to "The Department's"; "43 CFR 4.1386" has been changed to "62 Ill. Adm. Code 1847.3(k)".

In Section 1773.25(c)(1)(A), "and" has been changed to "or"; in subsection (c)(2)(C), "." has been changed to ";".

The word "state" has been capitalized in this rulemaking.

12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): Part 1773 contains requirements for permits and permit processing. Section 1773.15(a)(1) has been revised in response to the Office of Surface Mining Reclamation and Enforcement, which indicated that the change was necessary in order to make the regulation consistent with its federal counterpart. The purpose of the revisions to this Part, and the addition of Sections 1773.23 through 1773.25, are in accordance with and promulgated by Federal counterpart rules at 59 Fed. Reg. 54306 (October 28, 1994) concerning the allocation, violation system and standards and procedures for ownership and control.

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

determinations.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 732-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1773

REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Section

- 1773.1 Scope and Purpose
- 1773.5 Definitions
- 1773.11 Requirements to Obtain Permits
- 1773.12 Regulatory Coordination with Requirements under Other Laws
- 1773.13 Public Participation in Permit Processing
- 1773.14 Opportunity for Public Hearing
- 1773.15 Review of Permit Applications
- 1773.17 Permit Conditions
- 1773.19 Permit Issuance and Right of Renewal
- 1773.20 Improvidently Issued Permits: General Procedures
- 1773.21 Improvidently Issued Permits: Rescission Procedures
- 1773.22 Verification of Ownership of Control Application Information
- 1773.23 Review of Ownership of Control and Violation Information
- 1773.24 Procedures for Challenging Ownership of Control Links in the Applicant Violator System
- 1773.25 Standards for Challenging Ownership of Control Links and the Status of Violations

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 11 Ill. Reg. 8395, effective July 1, 1987; amended at 14 Ill. Reg. 11886, effective January 1, 1991; amended at 15 Ill. Reg. 17274, effective January 1, 1992; amended at 15 Ill. Reg. 17998, effective January 1, 1992; amended at 17 Ill. Reg. 11063, effective July 1, 1993; amended at 20 Ill. Reg. 2090, effective JAN 9 1996.

Section 1773.15 Review of Permit Applications

a) General.

- 1) The Department shall review the application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision, in accordance with Section 1773.19, either granting, requiring modification of, or denying the application. If an informal conference or public hearing is held under Section 1773.13(c), 1773.14, the decision shall be made within sixty (60) days of the close of the conference. Public hearing, unless a later time is necessary to provide an opportunity for a hearing under subsection (b)(3) below.

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- 2) The applicant for a permit or revision of a permit shall have the burden of establishing that his application is in compliance with all the requirements of the regulatory program.
- b) Review of violations.

1) Based on a review of all reasonably available information concerning violation notices and ownership or control links involving the applicant, including information obtained pursuant to Sections 177.122, 177.123, 177.124 and 177B.14, the Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act, any State or Federal regulation promulgated pursuant to either a State program, or any Federal or State law of regulation pertaining to air or water environmental protection. In the absence of a failure-to-abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 184.12 or under a Federal or State program is being corrected to the satisfaction of the agency with jurisdiction over the violation where the applicant has not yet expired and when, as part of the violation information provided pursuant to 62 Ill. Adm. Code 177B.14, the applicant has provided certification that such violation is in the process of being so corrected. Such presumption shall not apply where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine land reclamation fees or civil penalties. If a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either: Based on available information concerning Federal and State statute to abate cessation orders as defined in 62 Ill. Adm. Code 184.11(b) or under the counterpart rule of another state regulatory authority, unaccepted Federal and State commitment to abate cessation orders as defined in 62 Ill. Adm. Code 184.11(a) or under the counterpart rule of another state regulatory authority, designate civil penalties issued pursuant to Section 344 of the State Act and Section 519 of the Federal Act or pursuant to the counterpart provision of another state regulatory program, bond in fees when violations upon which the forfeitures were based have not been corrected, or designate abandoned mine reclamation fees and unaccepted violations of Federal and State law, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation. The Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act, or any other law, rule or regulation referred to

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

in this subsection. In the absence of a failure to abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 184.12 or under Federal or State program has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation except where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine reclamation fees or civil penalties. If a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either:

- A) Submit to the Department proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or
- B) Establish for the Department that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the circuit or district court reviewing the violation, pursuant to 62 Ill. Adm. Code 184.14(p), 30 CFR 775.13 or in accordance with the procedures established by other state regulatory authorities, either denies a stay applied for in the appeal or affirms the violation, then the applicant shall submit the proof required under subsection (b)(1)(A) above within thirty (30) days of the court's decision.

- 2) Any permit that is issued on the basis of a presumption supported by certification under 62 Ill. Adm. Code 177B.14 that a violation is in the process of being corrected, on the basis of proof submitted under subsection (b)(1)(A) of this Section that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) of this Section, shall be conditionally issued. Any permit that is issued on the basis of proof submitted under subsection (b)(1)(A) above that a violation is in the process of being corrected or pending the outcome of an appeal described in subsection (b)(1)(B) above, shall be conditionally issued.

- 3) If the Department makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Federal or State Acts of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the Federal or State Acts, the application shall be denied. Before such a finding becomes final, the applicant or operator shall be

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

afforded an opportunity for an adjudicatory hearing on the determination as provided for in 62 Ill. Adm. Code 194.13.

- c) Written findings for permit application approval.
No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

- 1) The application is complete and accurate and the applicant has complied with all requirements of the Federal Act, State Act and the regulatory program.
- 2) The applicant has demonstrated that reclamation as required by the Federal Act, State Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.
- 3) The proposed permit area or the proposed shadow area for a planned subsidence operation is:

- A) Not within an area under study or administrative proceedings under a petition, filed pursuant to 62 Ill. Adm. Code 1764, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal and financial commitments in relation to the operation covered by the permit application; or
- B) Not within an area designated as unsuitable for mining pursuant to 62 Ill. Adm. Code 1762 and 1764 or subject to the prohibitions or limitations of 62 Ill. Adm. Code 1761.11 and 1761.12.

- 4) For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Department the documentation required under 62 Ill. Adm. Code 1778.15(b).

- 5) The Department has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area, in accordance with 62 Ill. Adm. Code 1780 and 1784 and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

- 6) The applicant has demonstrated that any existing structure will comply with 62 Ill. Adm. Code 1700.11(d).

- 7) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870.

- 8) The applicant has satisfied the applicable requirements of 62 Ill. Adm. Code 1785.

- 9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural post-mining land use, in accordance with the requirements of 62 Ill. Adm. Code 1816.11(d) and 1817.11(d).

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- 10) The operation would not affect the continued existence of endangered or threatened species or result in destruction of adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

- 11) For a proposed rearing operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.106 or 1817.106, the site of the operation is a previously mined area as defined in 62 Ill. Adm. Code 1701.106.1(a).

- 12) The Department has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operating plan protecting historic resources, or a documented decision that the Department has determined that no additional measures are necessary.

- d) Expiration of findings.

Written findings issued by the Department approving a permit application shall expire within one (1) year from the date of issuance if the permit has not been issued based upon the applicant's failure to submit permit fees in accordance with 62 Ill. Adm. Code 1777.17 or a performance bond in accordance with 62 Ill. Adm. Code 1800.11. When written findings expire, the Department will take no further action on the permit application. Should the applicant choose to resume permitting activity for the area in question, a new permit application must be submitted in accordance with the requirements of this Part Section 1773.

- e) Final compliance review.

After an application is approved, but before the permit is issued, the Department shall reconsider its decision to approve the application, based on the compliance review required by subsection (b)(1), in light of any new information submitted under 62 Ill. Adm. Code 1778.13(i) and 1778.14(e).

(Source: Amended at 20 Ill. Reg. **2090**, effective **JAN 19 1996**)

Section 1773.20 Improvidently Issued Permits: General Procedures

- a) Permit review.

If the Department receives information indicating that it improvidently issued a surface coal mining and reclamation permit, the Department shall review the circumstances under which the permit was issued using a criteria in subsection (b) below. Where the Department finds that the permit was improvidently issued, it shall undertake the remedial measures set forth in subsection (c) below.

- b) Review criteria.

The Department shall find that a surface coal mining and reclamation

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

permit was inadvertently issued is:

1) Under the violations review criteria of the regulatory program at the time the permit was issued:

- A) The Department should not have issued the permit because of an unratified violation or a delinquent penalty or fee; or
- B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

2) The violation, penalty or fee:

- A) Remains unabated or delinquent; and
 - B) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and
- C) Where the permit was linked to the violation, penalty or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty or fee still exists, or where the link has been severed, the permittee continues to be responsible for the violation, penalty or fee.

3) The provisions of Section 1773.25 shall apply when the Department receives:

- A) Whether a violation, penalty or fee existed at the time that it was cited, remains unabated or delinquent, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal; and
- B) Whether any ownership or control link between the permittee and the person responsible for the violation, penalty or fee existed, still exists, or has been severed.

Under the violations review criteria of the regulatory program at the time the permit was issued:

- A) The Department should not have issued the permit because of an unratified violation or a delinquent penalty or fee; or
 - B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and
- 2) The violation, penalty or fee:
- A) Remains unabated or delinquent; and
 - B) Is not the subject of a good faith appeal, pursuant to 62 Ill. Adm. Code 1847.3, in accordance with the procedures in other regulatory jurisdictions, or of an abatement plan or payment schedule with which the permittee or other person

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

responsible is complying to the satisfaction of the responsible agency; and

3) Where the permittee was linked to the violation, penalty or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty or fee still exists, or where the link was severed, the permittee continues to be responsible for the violation, penalty or fee.

c) Remedial measures.

If the Department finds, under subsection (b) above, that because of an unabated violation or a delinquent penalty or fee a permit was inadvertently issued, the Department shall undertake one or more of the following remedial measures:

- 1) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;
- 2) Impose on the permit a condition requiring that in the specified period of time the permittee or other person responsible abate the violation or pay the penalty or fee;
- 3) Suspend the permit until the violation is abated or the penalty or fee is paid; or
- 4) Revoke the permit under Section 1773.21. Revoke the permit if the Department decides to suspend the permit, it shall give at least 30 days written notice to the permittee. If the Department decides to suspend the permit, it shall issue a notice in accordance with Section 1773.21. In either case, the permittee shall be given the opportunity to request review of the notice under 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of the review, unless temporary relief is granted under 62 Ill. Adm. Code 1847.3(k).

(Source: Amended at 20 Ill. Reg. 2090, effective 1/19/93)

Section 1773.21 Improvidently Issued Permits: Rescission Procedures

If the Department, under Section 1773.20(c)(4), elects to rescind an improvidently issued permit, the Department shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the Department under Section 1773.20(b) and states that:

- a) Automatic suspension and rescission. After a specified period of time not to exceed ninety (90) days the permit automatically will become suspended, and not to exceed ninety (90) days thereafter rescinded, unless within those periods the permittee submits proof, and the Department finds, consistent with the provisions of Section 1773.25, that:
- 1) The Department's finding under Section 1773.20(b) was erroneous;

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- 2) The permittee or other person responsible has shared the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;
- 3) The violation, penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or
- 4) Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee.
- b) Cessation of operations.
After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures including, but not limited to, maintenance and monitoring as required by the Department; and
- c) Rights to appeal. The permittee may file a request for an administrative hearing to contest the notice under 62 Ill. Adm. Code 1773.23.

(Source: Amended 20 Ill. Reg. 2090, effective JAN 19 1996)

Section 1773.22 Verification of Ownership or Control Application Information

- a) In accordance with Section 1773.15(c)(1), prior to the issuance of a permit, the Department shall review the information in the application provided pursuant to 62 Ill. Adm. Code 1778.13 to determine that such information, including the identification of the operator and all owners and controllers of the operator, is complete and accurate. In making such determination, the Department shall compare the information provided in the application with information from other reasonably available sources, including:
- 1) Manual data sources within the State, including:
 - A) The Department's inspection and enforcement records; and
 - B) The Secretary of State's corporate or tax records, to the extent they contain information concerning ownership or control links; and
 - 2) Automated data sources, including:
 - A) The Department's own computer systems; and
 - B) The Applicant Violator System.
- b) If it appears from the information provided in the application pursuant to 62 Ill. Adm. Code 1778.13(c) through (d) that none of the persons identified in the application has had any previous mining experience, the Department shall inquire of the applicant and investigate whether any person other than those identified in the application will own or control the operation as either an operator or

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- other owner or controller.
- c) If, as a result of the review conducted under subsections (a), and (b) above, the Department identifies any potential omission, inaccuracy, or inconsistency in the ownership or control information provided in the application, it shall, prior to making a final determination with regard to the application, contact the applicant and require that the matter be resolved through submission of an amendment to the application or a satisfactory explanation which includes credible information sufficient to demonstrate that an omission, inaccuracy, or inconsistency exists. The Department shall also take action in accordance with the provisions of 62 Ill. Adm. Code 1773.23 where appropriate.
- d) Upon completion of the review conducted under this Section, the Department shall promptly enter into or update a database of control information on the Applicant Violator System.
- (Source: Added 20 Ill. Reg. 2090, effective JAN 9 1996)

Section 1773.23 Review of Ownership or Control and Violation Information

- a) Following the verification of ownership or control information pursuant to Section 1773.22, the Department shall review all reasonably available information concerning violation notices and ownership or control links involving the applicant to determine whether the application can be approved under Section 1773.15(c) above. Such information shall include:
- 1) With respect to ownership or control links involving the applicant, all information obtained under 62 Ill. Adm. Code 1773.22 and 1778.13; and
 - 2) With respect to violation notices, all information obtained under 62 Ill. Adm. Code 1778.14, information obtained from OSM, including information shown in the AVS, and information from the Department's own records concerning violation notices.
- b) If the review conducted under subsection (a) above discloses any ownership or control link between the applicant and any person cited in a violation notice:
- 1) The Department shall so notify the applicant and shall refer the applicant to the agency with jurisdiction over such violation notice; and
 - 2) The Department shall not approve the application unless and until it determines, in accordance with the provisions of Sections 1773.24 and 1773.25:
 - A) that all ownership or control links between the applicant and any person cited in a violation notice are erroneous or have been rectified; or
 - B) that the violation has been corrected, is in the process of being corrected, or is the subject of a good faith appeal.

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- c) Within the meaning of Section 1773.15(b)(1), following the Department's decision on the application, including unconditional issuance, conditional issuance, or denial of the permit, or following the applicant's withdrawal of the application, the Department shall promptly enter all relevant information related to such decision or withdrawal into the Applicant Violator System.

(Source: Added at 20 Ill. Reg. 2090, effective
JAN 19 1996)

Section 1773.24 Procedures for Challenging Ownership or Control Links Shown in the Applicant Violator System

a) Who may challenge.

- 1) Any applicant or other person shown in the Applicant Violator System (AVS) in an ownership or control link to any person may challenge such link in accordance with the provisions of 30 CFR 1773.24(b) through (d) and 30 CFR 1773.25, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the link.
- 2) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a federal violation notice may challenge the status of the violation covered by such notice in accordance with the provisions of 30 CFR 1773.24(b) through (d) and 30 CFR 1773.25, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.
- 3) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a state violation notice may challenge the status of the violation covered by such notice in accordance with subsections (b) through (d) below and Section 1773.25, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.
- b) Any applicant or other person who wishes to challenge an ownership or control link shown in AVS or the status of a State violation, and who is eligible to do so under the provisions of subsection (a)(3) above, shall submit a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents.
- c) The Department shall review any information submitted under subsection (b) above and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted, and if so, whether the violation covered by the notice remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of Section 1773.15(b)(1).
- d) Notice to applicant.

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- 1) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has been shown to be erroneous or has been rebutted, and that the violation covered by the notice has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall correct the information in AVS.
- 2) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has not been shown to be erroneous and has not been rebutted, and that the violation covered by the notice remains outstanding, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall update the information in AVS, if necessary.
- 3) The Department shall serve a copy of the decision on the applicant or other person by certified mail, or by any means consistent with the rules governing service of a summons and complaint under Rule 1 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or of the mail and shall not be deemed incomplete because of a refusal to accept.
- 4) The applicant or other person may appeal the Department's decision within 30 days of service of the decision in accordance with 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of the appeal, unless temporary relief is granted in accordance with 62 Ill. Adm. Code 1847.3(k).

(Source: Added at 20 Ill. Reg. 2090, effective
JAN 19 1996)

Section 1773.25 Standards for Challenging Ownership or Control Links and the Status of Violations

- a) The provisions of this Section shall apply whenever a person has and exercises a right, under the provisions of Sections 1773.20, 1773.21, 1773.23 or 1773.24, to challenge an ownership or control link to any person and/or the status of any violation covered by a notice. Agencies responsible.
- b) 1) Except as provided in subsection (b)(3) below:
A) The regulatory authority before which an application is pending shall have responsibility for making decisions with respect to ownership or control relationships of the applicant.
B) The regulatory authority that issued a permit shall have responsibility for making decisions with respect to the ownership or control relationships of the permit.

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

- C) The regulatory authority for the State that issued a State violation notice shall have responsibility for making decisions with respect to the ownership or control relationships of the violation.
- D) The regulatory agency that issued a violation notice, whether State or Federal, shall have responsibility for making decisions concerning the status of the violation covered by such notice, i.e., whether the violation remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, within the meaning of Section 1773.15(b)(1).
- 2) OSM shall have responsibility for making decisions with respect to the ownership or control relationships of a Federal violation notice.

3) With respect to information shown on AVS, the responsibilities referred to in subsection (b)(1) above shall be subject to the primary authority of OSM to review any State regulatory authority decision regarding an ownership or control link.

4) With respect to ownership or control information which has not been entered into AVS by a State and with respect to information shown on AVS relating to the status of a violation, State regulatory authorities' determinations are subject to OSM's program authority oversight under 30 CFR 733.842 and 843.

C) Evidentiary standards:

1) In any formal or informal review of an ownership or control link or of the status of a violation covered by a violation notice, the responsible agency shall make a prima facie determination or showing that such link exists, existed during the relevant period, and/or that the violation covered by such notice remains outstanding. Once such a prima facie determination or showing has been made, the person challenging such link or the status of the violation shall have the burden of proving by a preponderance of the evidence, with respect to any relevant time period, that:

A) The facts relied upon by the responsible agency to establish ownership or control or a presumption of ownership or control under the definition of "owned or controlled" or "owns or controls" in Section 1773.5, do not or did not exist;

B) A person subject to a presumption of ownership or control under the definition of "owned or controlled" or "owns or controls" in Section 1773.5 does not or did not in fact have the authority directly or indirectly to determine the manner in which surface coal mining operations are or were conducted; or

C) The violation covered by the violation notice did not exist, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of Section 1773.15(b)(1), provided that the existence of the

DEPARTMENT OF NATURAL AMENDMENTS

NOTICE ADOPTED AMENDMENTS

violation at the time it was cited may not be challenged, under the provisions of Section 1773.24, by the following persons:

- i) By a permittee, unless such challenge is made by the permittee within the context of Section 1773.20 through 1773.21;
- ii) By any person who had a prior opportunity to challenge the violation notice and failed to do so in a timely manner; or
- iii) By any person who is bound by a prior administrative or judicial determination concerning the existence of the violation.

2) In meeting the burden of proof set forth in subsection (c)(1) above, the person challenging the ownership or control link or the status of the violation shall present substantive, relevant, and substantial evidence and any supporting explanatory materials which may be relevant to the responsible agency include:

A) Affidavits setting forth specific facts concerning the scope of responsibility of the various owners or controllers of an applicable permittee or any person cited in a violation notice; the duties actually performed by such owners or controllers; the beginning and ending dates of such owners or controllers' affiliation with the applicant, permittee, or person cited in a violation notice; and the nature and details of any transaction creating or setting an ownership or control link or specific facts concerning the status of the violation;

B) Certified copies of corporate minutes, stock ledgers, contracts, purchase and sale agreements, leases, correspondence or other relevant company records;

C) Certified copies of documents filed with or issued by any State, municipal or Federal governmental agency;

D) An opinion of counsel, when supported by:

- i) Evidentiary materials;
- ii) A statement by counsel that he or she is qualified to render the opinion; and
- iii) A statement that counsel has personally and diligently investigated the facts of the matter or, where counsel has not so investigated the facts, a statement that such opinion is based upon information which has been supplied to counsel and which is assumed to be true.

E) If before any administrative or judicial tribunal, reviewing the decision of the responsible agency, any evidence admissible under the rules of such tribunal.

d) Following any determination by a State regulatory authority or other State agency, or any decision by an administrative or judicial tribunal reviewing such determination, the State regulatory authority shall review the information in AVS to determine if it is consistent

DEPARTMENT OF NATURAL RESOURCES

NOTICE ADOPTED AMENDMENTS

with the determination or decision. If it is not, the State regulatory authority shall promptly inform OSM and request that the AUS information be revised to reflect the determination or decision.

(Source: Added at 20 Ill. Reg. **2090** 1, eff. 01/01/96
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Requirements for Permits for Special Categories of Mining
- 2) Code Citation: 62 Ill. Adm. Code 1785
- 3) Section Numbers Adopted Action
1785.17 Amend
1785.23 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (235 ILCS 720).

5) Effective Date of Amendments: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1492 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1785.17(a), "1)" has been added before "This"; "2)" has been added before "This" in the last sentence; and "Section" has been capitalized; In Section 1785.17(a), "(1)" has been changed to "(A)", "(2)" has been changed to "(B)", "(3)" has been changed to "(C)", "(A)" has been changed to "(1)", "(B)" has been changed to "(1)", "(4)" has been stricken and replaced with "(3)", and "(5)" has been replaced with "(4)".

In Section 1785.17(b)(1), "U.S. Soil" has been replaced with "Natural Resources" and "(S.C.S.)" has been stricken; Section 1785.17(b)(3), "S.C.S." has been stricken and replaced with "Natural Resources Conservation Service"; subsection (c)(1), "1951" has been stricken and replaced with "1993"; subsection (c)(1)(A), "001-000-02597-0" has been stricken and replaced with "001-000-04611-0 (Soil Survey Manual)"; "10100-839-6" has been stricken and replaced with "001-000-0461298 (Soil Taxonomy)"; "Soil" has been stricken and replaced with "Natural Resources"; and "Marion" has been stricken and replaced with "Benton"; subsection (c)(1)(B), "S.C.S." has been stricken and replaced with "Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Conservation Service"; subsection (d)(1), "Soil" has been stricken and replaced with "Natural Resources" and the last sentence in subsection (d)(1) has been reinstated.

In Section 1785.23(g)(2), "paragraph" has been stricken and replaced with "subsection".

12) Have all changes entered upon by COAR and the agency been made as indicated in the agreement letter issued by COAR to the agency? Yes

13) Will these amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): Section 1784.15 sets forth underground mining reclamation plan requirements, and has been reorganized and amended for consistency with federal counterpart rules at 59 Fed. Reg. 27932 (May 27, 1994). Many of the changes were taken from Section 1783.25, portions of which have been deleted in this rulemaking.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINING AND MINERALS

PART 1785

REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Section	Scope
1785.1	Objective
1785.2	Experimental Practices Mining
1785.13	Mountain-top Removal Mining
1785.14	Steep Slope Mining
1785.15	Permits Incorporating Variances From Approximate Original Contour Restoration Requirements
1785.16	Prime Farmlands
1785.17	Variances for Delay in Contingent Reclamation Requirement in Combined Surface and Underground Mining Activities
1785.18	Austring
1785.20	Coal Preparation Plants Not Located Within the Permit Area of a Mine
1785.21	In Situ Processing Activities
1785.22	Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area
1785.23	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (25 U.S.C. 7201).

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 1930; amended at 9 Ill. Reg. 1334, effective October 10, 1985; amended at 11 Ill. Reg. 8416, effective July 1, 1987; amended at 17 Ill. Reg. 11075, effective July 1, 1993; amended at 20 Ill. Reg. 2107, effective JAN 19 1996.

Section 1785.17 Prime Farmlands

a) Scope

1) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations on prime farmlands historically used for cropland. Nothing in this Section shall apply to any permit issued prior to the date of enactment of the Federal Act, or to any revisions or amendments thereto to any existing surface mining operations for which a permit was issued prior to the date of enactment of the Federal Act as determined by the Department prior to September 29, 1991. For lands for which a request for exemption was initially made or pending on or after September 29, 1991, this Section does not apply to

2) This Section does not apply to:
a) Lands on which surface coal mining and reclamation

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The reconnaissance inspection shall be either a review of an existing soil survey for the proposed permit area or an on-site inspection of the proposed permit area. The Department shall consult with the Natural Resources Service Soil Conservation Service (S-C-S) to determine the nature and extent of the required reconnaissance inspection.
- 2) If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the applicant shall submit a statement that no prime farmland is present. The statement shall identify the basis upon which such a conclusion was reached.
- 3) In those cases where an on-site inspection of the proposed permit area was the type of reconnaissance inspection conducted, the applicant shall have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. In those cases where a review of an existing soil survey was the type of reconnaissance inspection conducted, the applicant shall have the soil survey revised, if necessary, to meet the standards of subsection (c)(1). Soil surveys of the detail used by the Natural Resources Conservation Service (S-C-S) for operational conservation planning shall be used to identify and locate prime farmland soils, as specified in subsection (c)(1)(A).

A) If the soil survey indicates that no prime farmland soils are present within the proposed permit area, subsection (b)(2) shall apply.

B) If the soil survey indicates that prime farmland soils are present within the proposed permit area, subsection (c) shall apply.

c) Application contents for prime farmland.

All permit applications for areas in which prime farmland has been identified, within the proposed permit area, shall include the following:

- 1) A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1933-1951);
- A) These publications are hereby incorporated by reference as they exist on the date of adoption of this part. Agriculture Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual) are on file and available for inspection at the Office of Surface Mining and Reclamation (OSMRE) Central Office, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C., at each OSM Technical Center and Field Office. Copies of these publications may also be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

obtained by written request to the above locations. Copies of these documents are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock Number 54-300-141-2 (Soil Survey Manual) 691-994-3937-6 and Stock Number 501-300-141-2-3 (Soil Taxonomy) 16198-889-6. In addition, these documents are available for inspection at the national, state, and local offices of the Natural Resources Conservation Service, U.S. Department of Agriculture (USDA) and at the Federal Register Library, 1100 L Street, N.W., Washington, D.C. Copies of these documents will be available for public review and copying at cost at the Office of the Secretary of State, and at the Springfield and Benton Marion office of the Land Reclamation Division of the Department.

B) The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the Natural Resources Conservation Service S-C-S, including, but not limited to, soil horizon depths, pH, and range of soil densities for each prime farmland soil map unit within the permit area. Other representative soil profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the State Conservationist of the Natural Resources Conservation Service. S-C-S. The Department shall request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil reconstruction standards of 62 Ill. Adm. Code 1823.

2) A plan for soil reconstruction, replacement and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of 62 Ill. Adm. Code 1823.

3) Scientific data, such as agricultural school studies, for areas with comparable soils, climate, and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nominated prime farmland in the surrounding area.

4) The productivity prior to mining, including the average yield of food, fiber, forage, or wood products obtained under a high level of management.

d) Consultation with the State Conservationist.

1) Before any permit is issued for areas that include prime farmland, the Department shall consult with the State Conservationist of the Natural Resources Conservation Service.

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

Service. The State Conservationist shall provide for the review of, and comment on the proposed method of soil reconstruction in the plan submitted under subsection (c). If the State Conservationist considers those methods to be inadequate, he or she shall suggest revisions resulting in more complete and adequate reconstruction. In keeping with the time limitations imposed by those regulations, the State Conservationist's response will be expected within thirty (30) days of the last publication of the newspaper advertisement placed by the applicant. The State recognizes that the permit cannot be issued without the required consultation with USDA.

2) The State Conservationist shall provide to the Department a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland soil descriptions.

3) The State Conservationist shall assist the Department in determining the adequacy of all soil surveys required in subsection (2)(1).

e) Issuance of permit.

A permit for the mining and reclamation of prime farmland may be granted by the Department, if it first finds, in writing, upon the basis of a complete application, that:

- 1) The approved proposed post-mining land use of these prime farmlands will be agricultural;
- 2) The permit incorporates as specific conditions the contents of the plan submitted under subsection (c), after consideration of any revisions to that plan suggested by the State Conservationist under subsection (d);
- 3) The applicant has the technological capability to restore the prime farmland within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management; and
- 4) The proposed operations will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1823 and other environmental protection, performance and reclamation standards for mining and reclamation of prime farmland of the regulatory program.

(Source: Amended at 20 Ill. Reg. 2107, effective JAN 19 1996)

Section 1785.23 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

- a) Any person who intends to conduct underground mining activities which require establishment or use of minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall obtain a permit from the Department.
- b) Minor underground mine facilities include air shafts, fan and

ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures and associated roads.

c) Contents of application for permit. Each application for a permit shall contain, at a minimum, the following information:

- 1) The name, address, and telephone number of the applicant.
- 2) Reclamation and operations plans, including:
 - A) A narrative description of the proposed minor disturbance area, cross-referenced to the map required under subsection (C)(4), including surface topography, geological, surface water, and other physical features; and vegetation cover.
 - B) A narrative description of the methods to be used in the operations and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, roads, and other access route construction, and excavated earth and other debris disposal activities.
 - C) An estimated timetable for conducting and completing each phase of the reclamation.
 - D) The estimated amounts of coal to be removed and a description of the methods to be used to determine those amounts; and
 - E) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1821.182.

3) The name and address of the owner of record of the surface land.

4) A map at a scale of 1:24,000 or larger, showing the areas of land to be disturbed by the proposed operations and reclamation. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, topographic, cultural, and drainage features; and

5) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting operations and reclamation.

d) Public notice and opportunity to comment. Public notice of the application and opportunity to comment shall be provided as follows:

- 1) Within five (5) days of filing of an application with the Department, public notice shall be posted by the applicant at the courthouse or other public office designated by the Department in the vicinity of the proposed permit area and shall be published in a local newspaper in the area of the proposed activities.
- 2) The public notice shall state the name and business address of the person seeking the permit, the date of filing of the application, the address of the Department at which written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

proposed activities. In no case shall the public comment period be less than thirty (30) days:

- 3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within reasonable time limits the public comment period; and
- 4) The Interagency Committee shall be given copies of the application and provided thirty (30) days from the date of public notice to submit comments.

e) Applications: Approval or disapproval of minor underground mining activities not at or near the mine site.

- 1) The Department shall ~~approve or deny~~ make its final decision to approve, deny or require modification of the completed application for a permit within ten-thirty (30) days following the close of the public comment period; or

- 2) The Department shall approve a complete application filed in accordance with this Section if it finds in writing that the applicant has demonstrated that the activities and reclamation described in the application will be conducted in accordance with the State Act and 62 Ill. Adm. Code 1817.182.

f) Terms of approval. Each permit issued by the Department shall contain conditions necessary to ensure that the activities and reclamation will be conducted in compliance with the State Act and 62 Ill. Adm. Code 1817.182.

g) Applications: Notice and hearing for minor underground mining facilities.

- 1) The Department shall notify the applicant, each person who filed comments or objections to the permit application and the appropriate local government officials, in writing, of its decision to approve or ~~disapprove~~ deny the application. If the application is ~~disapproved~~ denied, the notice to the applicant shall include a statement of the reason for disapproval. The Department shall ~~provide public notice of approval or disapproval of each application by publication in a newspaper of general circulation in the general vicinity of the proposed activities.~~

- 2) Any person with interests which are or may be adversely affected by a decision of the Department pursuant to subsection paragraph (g)(1) above shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1817.182.3.

h) Minor facility compliance duties.

- 1) Minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall be conducted in accordance with 62 Ill. Adm. Code 1817.182 and any conditions on approval of such activities.

- 2) Any person who utilizes or establishes such minor facilities in violation of the State Act, this Section or 62 Ill. Adm. Code 1817.182 shall be subject to the provisions of Sections 8.01 to 8.10 of the State Act and 62 Ill. Adm. Code 1840 through 1845.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 20 Ill. Reg. effective
JAN 19 1996)

2107

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Revision, Renewal, and Transfer, Assignment or Sale of Permit Rights
- 2) Code Citation: 62 Ill. Adm. Code 1774
- 3) Section Numbers
Adopted Action
1774.13 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1663 - February 17, 1996
- 10) Has JCARR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
The Chapter heading has been changed to "Department of Natural Resources".
In the Authority Note, the Ill. Rev. Stat. cite has been stricken.
In Section 1774.13(b)(2)(E)(i), "part" has been capitalized and "and;" has been changed to "; and".
In Section 1774.13(d)(5), "." has been changed to ";".
In Section 1774.13(d)(6), "ten (10)" has been changed to "seven (7)".
- 12) Have all changes agreed upon by JCARR and the agency been made as indicated in the agreement letter issued by JCARR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect?
No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s):

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1774.13 contains provisions for permit revisions. The amendments to Section 1774.13(b)(2)(E) address the 5% limit for significant revisions, allowing the cumulation of the 5% limit to restart upon issuance of a significant revision that addressed all previous land use changes approved via insignificant revisions, i.e. without the benefit of public review and comment. Thus, the permittee would be allowed to take advantage of the provision for insignificant land use changes for the life of the permit, but changing more than 5% of the permit area without giving the public an opportunity for review and comment would not be allowed. By allowing the incidental boundary revisions that have been addressed in a subsequent significant revision to be considered as part of the original permit acreage, permittees will be afforded the opportunity to use the insignificant land use revision provisions for all the acres under permit that have gone through the public review and comment process, while the public will be protected from having land use changes on more than 5% of a permit without their having an opportunity for review and comment.

New subsection (d)(6) regarding incidental boundary revision application notice and comment is in response to the Office of Surface Mining Reclamation and Enforcement's August 5, 1993 30 CFR 732 letter.

- 16) Information and questions regarding these adopted amendments, shall be directed to:

Name: Karen Jacobs
Legal Counsel
Address: 524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1774

REVISION; RENEWAL; AND TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS

Section

1774.1 Scope and Purpose

1774.11 Department Review of Permits

1774.13 Permit Revisions

1774.15 Permit Renewals

1774.17 Transfer, Assignment, or Sale of Permit Rights

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

SOURCE: Adopted at 11 Ill. Reg. 8459, effective July 1, 1987; amended at 14 Ill. Reg. 11900, effective January 1, 1991; amended at 15 Ill. Reg. 17281, effective January 1, 1992; amended at 17 Ill. Reg. 11083, effective July 1, 1993; amended at 20 Ill. Reg. **2118**, effective **JAN 19 1996**.

Section 1774.13 Permit Revisions.

a) During the term of a permit, the permittee may submit an application to the Department for a revision of the permit. Such application may be made on the standard Department permit form; however, only those sections of the form which pertain to the revision in question must be completed.

b) Application Requirements and Procedures.

1) The Department will approve or disapprove applications for insignificant revisions within ninety (90) days after receipt of the application; applications for significant revision will be acted upon in accordance with 62 Ill. Adm. Code 1773.13 and 1773.15.

2) A significant revision to a permit shall be obtained for changes in the surface coal mining or reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method of conduct of mining or reclamation operations contemplated by the original permit. For purpose of these requirements, significant departures from the methods or conduct of mining or reclamation operations include any change in such mining or reclamation operations, except the following, if not contemplated or provided for in the original permit:

- A) For surface mines, changes of direction of mining or location of mining equipment within the permit area;
- B) Substitution of mining equipment designed for the same purpose, the use of which is not detrimental to achievement

of final reclamation or subsidence control:

- C) For underground mines, any change in direction or location of mining within the permit area or shadow area, in response to unanticipated events;
- D) Any other change in operations, methods, or conduct of mining described in writing to the Department which the Department excuses in writing from requirement of revision on a case-by-case basis after determining that the described change will have no significant potential adverse impact on the achievement of final reclamation plans or subsidence control plans or upon the surrounding area;
- E) Any alteration in the reclamation plan or reclamation operations which does not involve significant delay or significant change in land use described in writing to the Department and excused from this requirement of revision on a case-by-case basis. A significant revision shall be required for land use changes involving greater than 5% of the original total permit acreage. ~~The 5% limit shall be a cumulative total from permit issuance until final release.~~ ~~Alternative land use proposals shall comply with 62 Ill. Adm. Code 1816.133 or 1817.133, and shall be approved only after consultation with the landowner or the land management agency with jurisdiction over the landowner.~~ ~~The 5% limit shall be a cumulative total from permit issuance until final bond release, except as follows:~~
 - i) The 5% limit shall restart upon the issuance of a significant revision that addresses all previous land use changes approved under this part; and
 - ii) The total permit acreage used to determine the 5% limit shall include incidental boundary revisions (IGRs) if the IGRs have been addressed previously in a significant revision; or

F) Any temporary change in operations, subsidence control or reclamation plans necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other cause beyond the reasonable control of the permittee, after review and approval by the Department in writing, provided that all steps specified by the Department to maximize environmental protection are taken.

3) All significant permit revision applications shall meet the requirements of 62 Ill. Adm. Code 1773.13, 1773.19(b)(1) and (3) and 1778.21.

c) No application for a permit revision shall be approved unless the application demonstrates and the Department finds that reclamation as required by the Act and the regulatory program can be accomplished, applicable requirements under 62 Ill. Adm. Code 1773.15(c) which are pertinent to the revision are met, and the application for a revision complies with all requirements of the Act and the regulatory program.

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

d) Extensions of the permit area, except for incidental boundary revisions, shall be made by application for a new permit, and shall not be approved under this Part. Extensions of the shadow area, except for incidental boundary revisions, shall be made and approved pursuant to the requirements of this Part. Application for incidental boundary revisions shall be made pursuant to subsection 1774.13(a) above. Incidental boundary revisions are those which:

- 1) Constitute a relatively small percentage of the initial permit acreage;
- 2) Are contiguous with the permit or shadow area acreage, except that isolated long-term support facilities associated with underground mining activities need not be contiguous provided such facilities do not include coal preparation or coal waste disposal areas. Non-contiguous incidental boundary revisions shall be subject to the performance standards of 62 Ill. Adm. Code 1817.182;
- 3) Are required for the orderly and continuous mining operation;
- 4) Would be reclaimed in conformity with the initial plan, except where provided under subsection (d)(2) above;
- 5) For the purpose of this section, incidental boundary changes are described as follows:

Original Permit	Maximum Size of Boundary Changes-Acres
Acres	
Up to 10	1
Up to 25	2.5
Up to 50	5
Up to 75	7.5
Up to 100	10
Over 100	20

The maximum size for acreage additions to approved non-contiguous incidental boundary revision areas, as described in subsection (d)(2) above, shall be based upon the original boundary revision acreage, not the original permit acreage.

- 6) Notice of an incidental boundary revision application shall be published in a local newspaper in the area of the proposed activities. The notice shall describe the general area of the proposed activities and shall state the name and business address of the permittee, the address of the Department at which written comments on the application may be submitted and the closing date of the comment period. In no case shall the public comment period be less than seven (7) days. In order to process the incidental boundary revision application, proof of such publication must be submitted to the Department. The notice requirements of this subsection shall not apply to unclaimed subsidence areas.

e) A determination as to what constitutes a significant departure shall be made by the Department in consultation with the permittee. Changes which do not alter the final reclamation or mining plan are considered minor and do not require permit revision. However, any request for

such changes shall be included in a written request to the Department.

(Source: Amendment 20 Ill. Reg. **2118**, effective **JAN 9 1996**)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Small Operator Assistance

2) Code Citation: 62 Ill. Adm. Code 1795

3) Section Numbers Adopted Action

1795.1 Amend

1795.4 Amend

1795.6 Amend

1795.9 Amend

1795.12 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 IlCS 720].

5) Effective Date of Amendments: January 19, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1670 - February 17, 1995

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1795.4(a), "Mines and Minerals" has been stricken and replaced with "Natural Resources"; and "in the Land Reclamation Division" has also been stricken.

12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s): Sections 2.02 and 3.15 of the Surface Coal Mining Land Conservation and Reclamation Act, 225 IlCS 720/2.02 and 3.15, were recently amended to require the Department to provide

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

assistance to operators, to the extent required under federal law, when total annual coal production will not exceed 300,000 tons. The amendments also provided that the operator would reimburse the Department for the cost of services rendered when the operator's annual production of coal for all locations exceeds 300,000 tons during the 12 months following the issuance of the permit. Further, statutory changes expanded eligibility to information not previously eligible for reimbursement.

The amendments to Part 1795 of the Department's rules, which contain small operator assistance provisions, implement the above cited statutory changes and are consistent with counterpart federal regulations at 59 Fed. Reg. 28168 (May 31, 1994).

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 782-1909

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1795

SMALL OPERATOR ASSISTANCE

Section

1795.1 Scope and Purpose

1795.2 Objective (Repealed)

1795.3 Authority

1795.4 Definitions

1795.6 Eligibility for Assistance

1795.7 Filing for Assistance

1795.8 Application Approval and Notice

1795.9 Program Services and Data Requirements

1795.10 Qualified Laboratories

1795.11 Assistance Funding

1795.12 Applicant Liability

1795.13 Eligibility for Assistance (Repealed)

1795.14 Filing for Assistance (Repealed)

1795.15 Application Approval and Notice (Repealed)

1795.16 Data Requirements (Repealed)

1795.17 Qualified Laboratories (Repealed)

1795.18 Assistance Funding (Repealed)

1795.19 Applicant Liability (Repealed)

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; codified at 8 Ill. Reg. 16438; amended at 11 Ill. Reg. 848, effective July 1, 1987; amended at 20 Ill. Reg. 2124, effective JAN 19 1996.

Section 1795.1 Scope and Purpose

a) This Part comprises the Small Operator Assistance Program (SOAP), and establishes the procedures for providing assistance to eligible operators by the program administrator.

b) The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences and a statement of results of test borings or core samplings which are required components of the permit application under 62 Ill. Adm. Code 1795 through 1795 including the engineering analysis and designs necessary for the determination, cross-sections, maps, and plans, geologic drilling and statement of results of test borings and samplings; archaeological and historical information collection and relevant plan preparation, pre-blast surveys and pre-blast survey reports, and site specific resource information collection and relevant plan

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

preparation, which are required components of the permit application under 62 Ill. Adm. Code 1772 through 1785.

(Source: Amended at 20 Ill. Reg. 2124, effective JAN 19 1996)

Section 1795.4 Definitions

- a) As used in this Part, program administrator means the Illinois Department of Natural Resources Mines and Materials (Department Director's designee in the Land Reclamation Division); and
- b) Qualified laboratory means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samplings under the Small Operator Assistance Program and which meets the standards of Section 1795.10. Other studies and/or reports or plans under the Small Operator Assistance Program which meet the standards of Section 1795.10.

(Source: Amended at 20 Ill. Reg. 2124, effective JAN 19 1996)

Section 1795.6 Eligibility for Assistance

An applicant is eligible for assistance if he or she:

- a) Intends to apply for a permit pursuant to the Surface Coal Mining Land Conservation and Reclamation Act (44 Ill. Rev. Stat. 1985) Chapter 30, 1727 pars. 7301-61 et seq. 7 225 ILCS 720 (State Act);
- b) Establishes that his or her probable total actual and attributed annual production from all locations on which the operator is issued the surface coal mining and reclamation operations permit will not exceed 300,000 tons during any consecutive twelve (12) month period either during the term of his or her permit or during the five (5) years after issuance of his or her permit; whichever period is shorter; and will not exceed one hundred thousand (100,000) tons. Production from the following operations shall be attributed to the applicant:

- 1) The pro rata share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a five (5) ten (10) percent interest;
- 2) The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than five (5) ten (10) percent of the applicant's operation;
- 3) All coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management;
- 4) All coal produced by operations owned by members of the

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

- applicant's family and the applicant's relatives, unless it is established that there is no direct or indirect business relationship between or among them;
- c) Is not restricted in any manner from receiving a permit under the permanent regulatory program; and
- d) Does not organize or reorganize his or her company solely for the purposes of obtaining assistance under the SOAP.

(Source: Amended at 20 Ill. Reg. 2124, effective JAN 9 1996)

(Source: Amended at 20 Ill. Reg. 2124, effective JAN 9 1996)

Section 1795.12 Applicant Liability

- a) The applicant shall reimburse the Department for the cost of the laboratory services performed pursuant to this Part if:
- 1) The applicant submits false information, fails to submit a permit application within one (1) year from the date of receipt of the approved laboratory report, or fails to mine after obtaining a permit;
 - 2) The program administrator finds that the applicant's actual and attributed actual production of coal for all locations exceeds one hundred thousand (100,000) tons during any consecutive twelve (12)-month period ending during the term of the permit for which assistance is provided or during the first five (5)-year period of issuance of the permit, whichever is earlier; or
 - 3) The program administrator finds that the applicant's actual and attributed actual production of coal for all locations exceeds one hundred thousand (100,000) tons during any consecutive twelve (12)-month period ending during the term of the permit for which assistance is provided or during the first five (5)-year period of issuance of the permit, whichever is earlier; or

Section 1795.9 Program Services and Data Requirements

- a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination, studies, reports, plans and statement referenced in subsection (b) below for eligible operators who request assistance.
- b) The program administrator shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for:

- 1) The determination of probable hydrologic consequences, including the engineering analysis and designs necessary for the determination of the surface mining and reclamation operations in the proposed permit and adjacent areas in accordance with 62 Ill. Adm. Code 1780.21(f) and 1784.14(e); and
- 2) The drilling and statement of the results of test borings or core samples for the proposed permit in accordance with 62 Ill. Adm. Code 1780.22(b) and 1784.22(b)-7;
- 3) Cross-sections, maps and plans required by 62 Ill. Adm. Code 1779.25 and 1783.25;
- 4) Collection of archaeological and historical information and related plans required by 62 Ill. Adm. Code 1779.12(b), 1780.31, 1783.12(b) and 1784.17, and any other archaeological and historical information required by the Department;
- 5) Pre-blast surveys and reports pursuant to the provisions of 62 Ill. Adm. Code 1816.62;
- 6) Site specific resource information and protection and enhancement plans for fish and wildlife habitats and other environmental values required by the Department under 62 Ill. Adm. Code 1779.13, 1783.12, 1783.19 and 1784.21, and information and plans for any other environmental values required by the Department under the State Act.

- c) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.
- d) Data collected under this program shall be made publicly available in accordance with 62 Ill. Adm. Code 1773.13(d). The program administrator shall develop procedures for interstate coordination and

(Source: Amended at 20 Ill. Reg. 2124, effective JAN 9 1996)

b) The program administrator shall waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith. Good faith means honesty of intention and freedom from knowledge of circumstances which ought to put the applicant on inquiry for assistance upon inquiry.

- 3) The permit is sold, transferred, or assigned to another person and the original permittee's and transferee's total actual and attributed production exceeds the one hundred thousand (100,000) ton annual production limit during any consecutive twelve (12)-month period ending during the term of the permit for which assistance is provided or during the first five (5)-year period of issuance of the permit, whichever is earlier; or
- during the twelve (12) months immediately following the date on which the permit was originally issued. If the permit is transferred during the twelve (12) month period immediately following the permit issuance date, the determination of adherence to the twelve (12) month - 300,000 tons limit shall be performed by comparing the actual and attributed production of both parties for the twelve (12) month period immediately following the date of original permit issuance. Under this subsection the applicant and its successor are jointly and severally obligated to reimburse the Department.

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Special Permanent Program Performance
Standards--Operations on High Capability Lands

2) Code Citation: 62 Ill. Adm. Code 1825

3) Section Numbers Adopted Action:

1825

Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal
Mining Land Conservation and Reclamation Act (225 ICS 720).

5) Effective Date of Amendments: January 19, 1996

6) Does this Amendment contain an automatic repeal? Yes? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 19, 1996

9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill.
Reg. 1876 - February 17, 1995

10) Has DNR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The Chapter heading has
been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1825.14(c), 1825.14(e)(1)(E) and 1825.14(f), "Soil" has been
stricken and replaced with "Natural Resources".

12) Have all the changes agreed upon by the agency and DNR been made? Yes
indicated in the agreement letter issued by DNR to the agency? Yes

13) Will these Amendments replace an amended amendment currently in effect?
No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rule(s):

Section 1825.14 sets forth soil replacement requirements for high
capability lands. Subsection (e) has been revised to provide additional
methods for the Department to evaluate excessive compaction. The
Department will consult with appropriate agencies before adopting any
additional methods. Current regulations require a compaction alleviation

plan unless the permittee can demonstrate that the soils are equivalent to
unmined soils. Another proposed provision would waive that requirement if
the operator has demonstrated that it can meet the revegetation
requirements without some type of augmentative practice. In addition, the
provisions for retaining sufficient bond to ensure that adequate funds are
available for augmentation have been moved to this section from Section
1816.116(a)(2)(F).

16) Information and questions regarding these adopted amendments shall be
directed to:

Name: Karen Jacobs
Legal Counsel:
Address: 524 South Second St.
Springfield, IL 62701-1737
Telephone: (217) 782-1803

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
TITLE 62: MINING
DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1825
SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS--
OPERATIONS ON HIGH CAPABILITY LANDS

- Section
1825.11 High Capability Lands: Special Requirements
1825.12 High Capability Lands: Soil Removal
1825.13 High Capability Lands: Soil Stockpiling
1825.14 High Capability Lands: Soil Replacement

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (25 ILCS 720).

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; emergency amendment at 6 Ill. Reg. 8502, effective July 1, 1982, for a maximum of 150 days; codified at 8 Ill. Reg. 3363; amended at 6 Ill. Reg. 9987, effective September 3, 1982; amended at 10 Ill. Reg. 9623, effective July 1, 1986; amended at 11 Ill. Reg. 8326, effective July 1, 1987; amended at 20 Ill. Reg. **2130**, effective **JAN 9 1996**.

Section 1825.14 High Capability Lands: Soil Replacement

Surface mining operations on high capability lands shall be conducted according to the following:

- a) The operator shall establish a suitable rooting medium.
 - 1) Texture. In order to be of suitable texture, the materials under the darkened surface soil suitable as a root medium shall contain no more than twenty percent (20%) coarse material (greater than two (2)mm in size) by volume. No more than half of the coarse material may be between three (3) inches and ten (10) inches in the greatest dimension. No fragments shall be greater in size than ten (10) inches in the greatest dimension. In no case may clay material of less than two (2) microns be greater than forty percent (40%) by weight of the soil size material nor shall the sand size material of greater than fifty (50) microns be greater than sixty percent (60%) by weight of the soil size material, when clay material content is less than twenty percent (20%) by weight.
 - A) Rapid weathering coarse material, as determined by the Department, may be included in the root medium. If these fragments are allowed, they shall be included in the soil fraction for texture determination and shall not be included in the coarse fragment portion of texture evaluation.
 - B) These texture requirements do not apply if the soil

conditions of the affected land prior to mining did not meet the standards included herein (i.e., if more than twenty percent (20%) coarse material by volume existed in the root medium below the darkened surface soil prior to mining, the same percentage of coarse material in the root medium will be allowed after mining; if more than one-half (1/2) of the coarse material consisted of rocks in the three (3) to ten (10) inch size category prior to mining, the same percentage will be permitted after mining; and if more than forty percent (40%) by weight of clay materials less than two (2) microns in size and if more than sixty percent (60%) by weight of sand when clay material content is less than twenty percent (20%) by weight existed in the root medium below the darkened surface soil prior to mining, a like percentage by weight will be allowed after mining in the material under the darkened surface soil).

- 2) Chemical Properties. The materials under the darkened surface soil must be chemically suitable as an agricultural root medium. Toxic material capable of producing chemically unsuitable conditions shall not be incorporated within the material used to create the root zone established for these lands.
- 3) Depth. The combined vertical thickness of the darkened surface soil and the agricultural root medium must be at least four (4) feet in all cases, except where a natural rock formation occurs at shallower depths. In such case, the operator shall create a root medium of equivalent thickness to its premining condition.
- 4) The darkened surface soil shall be replaced as the final earth cover on high capability lands.
- 5) Location of texture compliance samples will be determined by random methods. Texture analysis shall be determined by methods specified by the Department.
- b) The Department may alter the texture requirements under this Part only upon a clear and convincing showing that to vary such requirements would better effectuate the purposes of the Act than would enforcing the standards herein.
- c) The affected land shall be graded to the approximate original contour of the land prior to mining. For the purpose of this Part, the slope of the land before mining are those lettered ranges classification of lands developed by the U.S. Department of Agriculture, Natural Resources Soil Conservation Service for use in preparing a soil survey of the area.
- d) Approximate original contour means grading of affected lands to a slope no greater than the maximum percent of the premining slope range of the individual soil map units.
- e) Compaction
 - 1) The agricultural root medium described in Section 1825.14(a) above shall be replaced and regraded to a uniform depth over the regraded spoil material in a manner that avoids excessive

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

compaction or a compaction alleviation plan shall be provided. Excessive compaction is indicated by:

A) Very firm, massive soil physical condition in any layer above the rooting medium depth required by subsection (a)(3) that has one-half or more of the soil volume in masses ten (10) inches or more in diameter that are not exploited by the root system;

B) Roots, restricted to a depth less than the required rooting medium depth;

C) Confinement of roots to matrix desiccation cracks; or

D) Flattened roots; or

E) Other diagnostic methods approved by the Department, in consultation with the Illinois Department of Agriculture and the U.S. Department of Agriculture, Natural Resources Conservation Service.

2) Compaction alleviation is required unless the permittee can demonstrate that root system development at similar depths in undisturbed soils typical of the mined area is no better than that observed in the reconstructed soil or if the permittee can demonstrate that the requirements of 62 Ill. Adm. Code 1816.116 or 1816.117, as applicable, have been met without compaction alleviation on areas reclaimed in a similar manner. However, the requirements of 62 Ill. Adm. Code 1816.116 or 1816.117 must still be met. The Department shall retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.

3) After approval of texture by the Department, the darkened surface soil shall be redistributed and graded to a uniform depth without excessive compaction over the replaced and regraded agricultural root medium.

f) High capability lands shall have a planned erosion control system if expected soil loss from row crop production will exceed the tolerable soil loss limits as defined by "Resource Conservation Planning Technical Material-IL-1" and subsequent revisions or modifications. Terrace systems, when utilized as part of a planned erosion control system, shall be constructed according to U.S. Department of Agriculture, Natural Resources Soil Conservation Service specifications. Erosion control plans in compliance with this subsection shall be submitted to and approved by the Department prior to the completion of the final grading of an area, or on a time schedule approved by the Department after final grading based on seasonal factors, the extent of the area, and the sophistication of the erosion control plan.

g) Slopes of all affected lands shall be measured from the drainage divide to the base of the slope or to the intermittent water course at the lowest point. Abrupt slope changes between these points are not acceptable except for unusual conditions such as ditches, terraces,

and roads.
h) The length of slope and contour of the restored surface shall be conducive to those farming operations normally associated with row crop production. Farming operations as used here shall include such measures or practices necessary to provide adequate drainage and erosion control for sustained row crop production.

(Source: Amended at 20 Ill. Reg. 2130, effective JAN 9 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

consistent with its federal counterpart rule, 30 CFR 840.22, published at 59 Fed. Reg. 60876 (November 28, 1994).

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1309

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State Enforcement
- 2) Code Citation: 62 Ill. Adm. Code 1843
- 3) Section Numbers
Adopted Action
1843.13 Amend
1843.23 New Section
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

- 5) Effective Date of Amendments: January 19, 1996

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: January 19, 1996

- 9) Notice of Proposed Amendments Published in Illinois Register:
19 Ill. Reg. 1682 - February 17, 1995

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources". In the Authority Note, the Ill. Rev. Stat. cite has been stricken; the ILCS cites have been placed in brackets. In the Table of Contents, "1843.23 Enforcement Actions at Abandoned Sites" has been added. In Section 1843.13, "1700 - 1850" references have been changed to "1700 through 1850"; subsection (b), "Supervisor of the Department's Land Reclamation Division" has been stricken and replaced with "Director or his or her designee".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes

- 13) Will these amendments replace an emergency amendment currently in effect?
No

- 14) Are there any amendments pending on this part? No

- 15) Summary and Purpose of Rule(s): Section 1843.13 covers suspension and revocation of permits. The Department proposes to amend this section to make it more consistent with its federal counterpart. New Section 1843.23 is proposed to be added, entitled "Enforcement Actions at Abandoned Sites." The proposed rule allows the Department to refrain from issuing notices of violation and cessation orders at abandoned mine sites and is

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1843

STATE ENFORCEMENT

Section

- 1843.11 Cessation Orders
- 1843.12 Notices of Violation
- 1843.13 Suspension or Revocation of Permits
- 1843.14 Service of Notices of Violation, Cessation Orders, and Show Cause Orders
- 1843.15 Informal Public Hearing
- 1843.16 Formal Review of Citations (Repealed)
- 1843.17 Temporary Injunctive Relief (Repealed)
- 1843.18 Inability to Comply
- 1843.19 Injunctive Relief (Repealed)
- 1843.20 Intervention (Repealed)
- 1843.21 Discovery (Repealed)
- 1843.22 Petitions for Award of Costs and Expenses Under Section 525(e) of the Federal Act

1843.23 Enforcement Actions at Abandoned Sites

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 5932; amended at 9 Ill. Reg. 13334, effective October 10, 1985; amended at 11 Ill. Reg. 8536, effective July 1, 1987; amended at 14 Ill. Reg. 11096; effective January 1, 1991; amended at 17 Ill. Reg. 11095, effective July 1, 1993; amended at 20 Ill. Reg. **2136**, effective **JAN 9 1996**.

Section 1843.13 Suspension or Revocation of Permits

a) Requirements.

- 1) Except as provided in subsection (b) below, the Department shall issue an order to a permittee requiring him to show cause why his permit and right to mine under the State Act should not be suspended or revoked, if the Department determines that a pattern of violations of any requirements of the Federal Act, the State Act, or 62 Ill. Adm. Code 1700 through -- 1950 or any permit condition exists or has existed, and that the violations were caused by the permittee willfully or through unwarranted failure to comply with those requirements or conditions. Violations by any person conducting surface coal mining

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1843

STATE ENFORCEMENT

Section

- 2) The Department may determine that a pattern of violations exists or has existed, based upon two (2) or more inspections of the permit area within any twelve (12) month period, after considering the circumstances, including:
 - A) The number of violations, cited on more than one (1) occasion, of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through -- 1950 or the permit;
 - B) The number of violations, cited on more than one (1) occasion of different requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through -- 1950 or the permit; and
 - C) The extent to which the violations were isolated departures from lawful conduct.

- 3) The Department shall determine that a pattern of violations exists if it finds that there was at least one (1) violation of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through -- 1950 or the permit during each of at least three (3) State inspections within any twelve (12) month period. The Department shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1950 or the permit during three (3) or more State inspections of the permit area within any twelve (12) month period. If, after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) above shall be issued.

4) Considerations.

- A) In determining the number of violations within any twelve (12) month period, the Department shall consider only violations issued as a result of a State inspection carried out:
 - i) During the permanent regulatory program; or
 - ii) During the interim regulatory program and before the applicable State program was approved, pursuant to Section 502 or 504 of the Federal Act.
- B) The Department may not consider violations issued as a result of inspections other than those mentioned in subsection (a)(4)(A)(i) above in determining whether to exercise discretion under subsection (a)(2) above.
- b) The Department may decline to issue a show cause order or may vacate an outstanding show cause order if it finds that taking into account exceptional factors present in the particular case, it would be demonstrably unjust to issue or to fail to vacate the show cause

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

order--the basis for this finding--shall be fully explained--and documented in the records of the case.

b) If Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or order or as subsequently extended, the Director or his or her designee Supervisor of the Department's Land-Reclamation Division shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this Section, and shall issue as appropriate an order to show cause, which shall be subject to a hearing under 62 Ill. Adm. Code 1847.6.

c) At the same time as the issuance of the order, the Department shall:

- 1) If practicable, publish notice of the order, including a brief statement of the procedure for intervention in the proceeding, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations; and
 - 2) Post the notice at the regional, district or field office closest to the area of the surface coal mining and reclamation operation.
- d) The permittee shall have thirty (30) days from the completion of service of a show cause order in which to file an answer and request a hearing in accordance with 62 Ill. Adm. Code 1847.6.
- e) If the Department revokes or suspends the permit and the permittee's right to mine the permittee shall immediately cease surface coal mining operations on the permit area and shall:
- 1) If the permit and the right to mine are revoked, complete reclamation within the time specified in the order; or
 - 2) If the permit and the right to mine are suspended, complete all affirmative obligations to abate all conditions, practices, or violations, as specified in the order.

(Source: Amended at 20 Ill. Reg. 2136, effective JAN 19 1996)

Section 1843.23 Enforcement Actions at Abandoned Sites

The Department may refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in 62 Ill. Adm. Code 1840.11(g), if abatement of the violation is required under any previously issued notice or order.

(Source: Added at 20 Ill. Reg. 2136, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Surface Mining Permit Application--Minimum Requirements for Reclamation and Operation Plan
- 2) Code Citation: 62 Ill. Adm. Code 1780
- 3) Section Numbers Adopted Action
1780.23 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1687 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".
In the Authority note, the "Ill. Rev. Stat." cite has been stricken.
In Section 1780.23(a)(3), "A soils map of medium intensity" has been changed to "An intensive soils map"; and "Soil Conservation Service" has been changed to "Natural Resources Conservation Service".
- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s):
Section 1780.23 sets forth reclamation plan requirements and has been reorganized and amended for consistency with federal counterpart rules at 59 Fed. Reg. 27932 (May 27, 1994). Many of the changes were taken from Section 1779.25, portions of which have been deleted in this rulemaking.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1909

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES AND MINERALS

PART 1780

SURFACE MINING PERMIT APPLICATION--MINIMUM
REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section
1780.4 Responsibilities
1780.5 Use of Existing Data
1780.6 Use of Expert Opinion
1780.11 Operation Plan: General Requirements
1780.12 Operation Plan: Existing Structures
1780.13 Operation Plan: Blasting
1780.14 Operation Plan: Maps and Plans
1780.15 Air Pollution Control Plan
1780.16 Fish and Wildlife Plan
1780.18 Reclamation Plan: General Requirements
1780.21 Hydrologic Information
1780.22 Geologic Information
1780.23 Reclamation Plan: Post-mining--Land-Uses Pre-Mining and Post-Mining Information
1780.25 Reclamation Plan: Ponds, Impoundments, Banks, Dams, and Embankments
1780.27 Reclamation Plan: Surface Mining Near Underground Mining
1780.29 Diversions
1780.31 Protection of Public Parks and Historic Places
1780.33 Relocation or Use of Public Roads
1780.35 Disposal of Excess Spoil
1780.37 Transportation Facilities
1780.38 Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1780.39 Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 8511; amended at 11 Ill. Reg. 8602, effective July 1, 1987; amended at 14 Ill. Reg. 11911, effective January 1, 1991; amended at 15 Ill. Reg. 17294, effective January 1, 1992; amended at 17 Ill. Reg. 11122, effective July 1, 1993; amended at 20 Ill. Reg. 2141, effective **JAN 9 1996**.

Section 1780.23 Reclamation Plan: Post-mining--Land-Uses Pre-Mining and Post-Mining Information

a) Each plan shall contain a detailed description of the proposed user

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

following reclamation of the land within the proposed permit area including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of the proposed use to existing land use policies and plans. This description shall be submitted.

1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use.

2) Where grazing is the proposed post-mining use, the detailed management plans to be implemented to any.

3) Where a land use different from the premining land use is proposed, alternative post-mining land uses may be approved by the Department after considering the relationship of the intended uses to existing land use policies and plans and the comments of any owner of the surface and land management agency having jurisdiction over the land.

4) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs concerning the proposed use by the best or suitable owner or record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

Preliminary information. The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including:

1) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within five (5) years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described. In the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available.

2) A narrative of land capability and productivity, which analyzes the land use description under subsection (a) above, in conjunction with other environmental resources information required under this Part. The narrative shall provide analyses of:

A) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and

B) The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State Agricultural Universities or appropriate State natural resource or agricultural agencies.

3) An intensive soils map prepared to the specifications of the Natural Resources Conservation Service of a concurred aerial photo with a scale of one smaller than 1:10,000 and contour interval of not greater than ten (10) feet.

b) Post-mining information. Each plan shall contain a detailed description of the proposed use, following reclamation of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use.

2) Where a land use different from the premining land use is proposed, all materials needed for approval of the alternative use under 62 Ill. Adm. Code 126.1331 and

3) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs concerning the proposed use by the best or suitable owner or record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

(Source: Amended at 20 Ill. Reg. 2141, effective

JAN 9 1995

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the part: Surface Mining Permit Applications - Minimum Requirements for Information on Environmental Resources
- 2) Code Citation: 62 Ill. Adm. Code 1779

3) Section Numbers Adopted Action

1779.22 Amend
1779.25 Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

- 5) Effective Date of Amendments: January 19, 1996

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: January 19, 1996

- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1632 - February 17, 1995

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".

In the Authority Note, the Ill. Rev. Stat. cite has been stricken.

In Section 1779.25(a)(10), ";" has been changed to ".".

In Section 1779.25(b), all ILCS cites have been put in brackets.

- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes

- 13) Will these Amendments replace an Emergency Amendment currently in effect? No

- 14) Are there any amendments pending on this part? No

- 15) Summary and Purpose of Rule(s): The amendments reorganize the rules consistent with counterpart federal rules at 59 Fed. Reg. 27932 (5/27/94). In addition, the amendments update, streamline and clarify the rules so that the Department may more effectively fulfill Illinois' responsibilities under the Surface Coal Mining Land Conservation and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Reclamation Act. 225 ILCS 720.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
(217) 782-1909

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 7) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit and adjacent areas;
- 8) Location and extent of existing or previously surface-lined areas within the proposed permit area;
- 9) Location, and dimensions of existing areas of spoil, waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;
- 10) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;
- 11) Sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit area, measured and recorded according to the following:
- A) Each measurement shall consist of an angle of inclination along the prevailing slope extending one hundred feet from the line of the slope and below or beyond the coal outcrop or the area to be disturbed or where this is impracticably at locations specified by the Department;
- B) Where the area has been previously mined, the measurements shall extend at least one hundred feet beyond the limits of mining disturbances or any other distance determined by the Department to be representative of the prevailing configuration of the land;
- C) Slope measurements shall take into account natural variations in slope to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed;
- D) A soils map of medium intensity prepared to SEG specifications or a contour aerial photo with a scale of not smaller than 1:400 and contour interval of not greater than ten feet;
- b) Maps, plans, and cross-sections included in a permit application which are required by this Section shall be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Act (1987-Rev. Stat. 1987 Ch. 117, pars. 512-513) or the Professional Engineering Practice Act of 1989 (225 ILCS 325) or a registered professional land surveyor licensed under the Illinois Land Surveyors Act (1987-Rev. Stat. 1985 Ch. 117, pars. 321-324) or the Illinois Professional Land Surveyor Act of 1989 (225 ILCS 330) with assistance from experts in related fields such as geology and landscape architecture and shall be updated as required by the Department.

(Source: Amended at 20 Ill. Reg. **2146**, effective
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Training, Examination and Certification of Blasters
- 2) Code Citation: 62 Ill. Adm. Code 1850
- 3) Section Number: Adopted Action
1850.13 Amend
1850.14 Amend
1850.15 Amend
1850.16 Amend
1850.17 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1995
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1697 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".
All Ill. Rev. Stat. cites have been stricken and all ILCS cites have been put in brackets.
In Section 1950.16(b)(3), (c)(2) and (c)(3), changed "(e), (g) through (p)" to (e) and (g) through (p)".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): 62 Ill. Adm. Code 1850 sets forth requirements for training, examination and certification of blasters. Various stylistic changes and corrections are proposed in Sections

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1850.13, 1850.14, 1850.15 and 1850.16. In addition, Section 1850.14(a) and (b) are proposed to be amended to allow notification of examinations to be done by telephone in those cases where it is not possible to give such notice in writing within the time specified in the rule. Section 1850.15(a) was proposed to be amended by shortening the deadlines for receipt and review of applications. Subsection (a) is also proposed to be amended by giving the Department some flexibility for scheduling applicants who are late in submitting their applications. Section 1850.17, entitled "Judicial Review", is proposed to be repealed as it is covered elsewhere in the regulations applicable to this Part.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1787
Telephone: (217) 762-1809

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 1850

TRAINING, EXAMINATION AND CERTIFICATION OF BLASTERS

Section	Definition
1850.5	1850.12 Applicability
1850.12	1850.13 Training
1850.13	1850.14 Examination
1850.14	1850.15 Application and Certification
1850.15	1850.16 Denial, Issuance of Notice of Infraction, Suspension, Revocation, and other Administrative Actions
1850.16	1850.17 Judicial Review [Repealed]

AUTHORITY: Implementing and authorized by Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.; and 30 CFR 816, 817 and 850) and the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 10 Ill. Reg. 3018, effective March 15, 1986; amended at 20 Ill. Reg. 2151, effective JAN 9 1996.

Section 1850.13 Training

- a) Training required herein, for those persons not previously trained in the subjects required herein, shall be conducted by the operator or his representative. The operator's representative may include, but is not limited to junior colleges, consultants, and explosives manufacturers. The training must meet the requirements of this Section.
 - b) The training for blasters certification shall include instruction in:
 - 1) The design and layout of blasts, including geology, topography and the proper use of delays.
 - 2) Control of ground vibration.
 - 3) Control of flyrock and air blast.
 - 4) Design and loading of boreholes.
 - 5) Priming and boosting.
 - 6) Tamping and stemming, including methods and materials.
 - 7) Blast initiation systems.
 - 8) The use of blasting machines.
 - 9) The use of circuit testing equipment.
 - 10) The general properties of explosives, including blasting agents, and selection criteria.
 - 11) Ground vibration, air blast and monitoring.
 - 12) The use of ground vibration and air blast records as blast design factors.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

documents, for completeness and the accuracy of the statements contained in the application and required documents. The Department's acceptance of an application shall be based on the applicant's compliance with the requirements of this Part.

- c) Each applicant shall be required to pass a written examination established by the Department. The examination shall be based on the requirements of Section 1950.13(b). The minimum passing score shall be seventy percent (70%) correct answers. The Department retains the sole right to determine whether any or all responses to examination questions are correct.
- d) Any applicant whose application is denied shall be so informed in writing, within thirty (30) days of the date the applicant is found to be not qualified. Reason(s) for such denial shall be included with the notification. Each applicant who meets the requirements of subsection (a) above and who passes the examination required in subsection (b) above shall be issued a blaster certificate as soon as practicable thereafter, but not more than forty-five (45) days after the examination date. Any applicant who meets the requirements of Section 1950.15(a), but who does not pass the examination, shall be so notified within fifteen (15) days of the examination date. That person may, upon written request, review his or her examination at the Department's Springfield office. Such request must be made and the review completed not less than ten (10) days prior to the reexamination date for which the applicant is scheduled. The review must be done during the Department's regular business hours. Any person who does not pass the examination shall be scheduled for the next reexamination session, pursuant to Section 1950.14(b).
- e) An employed blaster shall have readily available for inspection his or her certificate at the mine site.
- f) A temporary blaster certificate will be issued to any individual who applies to the Department for such certification and who provides a photocopy of his or her valid blaster certificate issued in another state with an Office of Surface Mining approved certification program, or the name of the state where the certificate was issued and the certificate number. The period of the temporary blaster certificate shall not exceed six months from the date of issuance. Such a temporary certificate shall be issued only once to any individual in any continuous five (5) year period.
- g) Each certificate shall be valid for five (5) years from the date of issuance. Recertification following expiration shall be in accordance with the application, examination, and certification requirements of this Part.
- h) Blaster certification shall not be assigned or transferred.
- i) Blasters shall not delegate their responsibility to any individual who is not a certified blaster.
- j) The blaster shall take reasonable precaution to protect his or her certificate from loss, theft or unauthorized duplication. Such loss, theft or duplication shall be reported to the Department without

DEPARTMENT OF NARRATIVE AND
SCIENCE OF THE NARRATIVE

NOTICE OF ADOPTED AMENDMENTS

delay.

(Source: Amended at 20 Ill. Reg. **2151**, effective
JAN 19 1996)

Section 1850.16 Denial, Issuance of Notice of Infraction, Suspension, Revocation, and other Administrative Actions

- a) The Department shall deny an application for, or revoke or suspend a certificate under the provisions of this Section if the Department finds that the applicant or certificate is, or was at the time of application or issuance, a person convicted of a felony under the laws of this or any other jurisdiction within the prior five (5) years, or who has been a patient in a mental institution within the prior five (5) years. The Department, when determining whether to revoke or suspend and when determining the length of a suspension, shall in addition to other factors, consider the nature of the felony of which the applicant was convicted, or the condition for which the applicant was confined to a mental institution, as well as the length of time since the conviction or confinement.
- b) Notice of Infraction
- 1) The Department shall, when in the best interest of protecting public safety and public and private property, issue to the blaster a written notice of infraction, requiring remedial action, when, on the basis of any inspection, the Department determines that the blaster has committed any of the following infractions:
- A) Noncompliance with State-Act Section 3.13 of the State-Act [225 ILCS 720/3.13], or 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68, or this Part, or 62 Ill. Adm. Code 220.130, or--an-Act--regulating the-manufacture--possession--transportation--use--sale--or--sale-of-explosives--1939-1941--EVS-500-49--after-3647--Rev.-Stat.-1937-ch-96-1/2--para-4917 the-Illinois-Explosives-Act-[225 ILCS 210], or 30 CFR 816.61 to 816.68 (1937), (43 Fed. Reg. 9806-2807, 9422, 9809, 44780 (1983)) or 30 CFR 817.61 to 817.68, (1935) 48 Fed. Reg. 9803-9811, 9432, 44781 (1983), or 30 CFR Part 850 (1935), 48 Fed. Reg. 9432 (1983), or 30 CFR 56.6300--56.6350 (1935), 50 Fed. Reg. 5040 (1985), or 30 CFR 57.6000--57.6350 (1935), 50 Fed. Reg. 4082 (1985), 36 Fed. Reg. 9634 (1971) or 43 Fed. Reg. 12323 (1978).
- B) Providing false information or a misrepresentation to obtain certification.
- C) Unlawful use in the workplace of or current addition to alcohol, narcotics, or other dangerous drugs.
- D) Noncompliance with any lawful order issued under the authority of the Surface-Mined-Land-Reclamation-Act.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

~~Reclamation Act the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq. (1982)), Section 3.13 of the State Act, or 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.65, 1817.61 to 1817.68, 1840.2, 1840.12, or this part.~~

2) The maximum time allowed to abate the infraction by completing the remedial action shall be stated in the notice and shall include consideration of the nature of the infraction, as well as the availability of resources to complete the abatement. Remedial actions may include, but need not be limited to, a requirements to receive additional training or undergo reexamination to demonstrate competence. A copy of such notice shall be forwarded to the blaster's employer. Any such notice may be terminated when the remedial action has been completed, modified to correct deficiencies or errors or make other changes in the notice or to change the required abatement date, or vacated if the infraction did not occur or occurred as the result of sabotage by persons other than the blaster.

3) The blaster may file a request for review with the Department, and if desired, a hearing within thirty (30) days of the receipt of the notice of infraction. ~~The request shall include the blaster's name, certification number, identification of the notice and the date of the notice. The request shall be forwarded to the Hearing Officer, Illinois Department of Mines and Minerals, and Reclamation Division, 227 South Seventh Street, Springfield, Illinois 62766. If a hearing is requested, the hearing shall be conducted in accordance with 62 Ill. Adm. Code 1845.13(b), (c), and (d) 1847.1(e) and (g) through (p) and shall be held at a location in Illinois as near the blaster's place of employment as a hearing room can be located. One of the Department's Offices. The Department shall give at least five (5) days notice of the date, time and location of the hearing to the blaster, his or her employer, the Director, Office of Surface Mining, and any person who filed a report which led to the notice that was issued.~~

4) The filing of a request for hearing shall not act as a stay of the remedial actions required as part of the notice of infraction.

c) Notice to Show Cause

1) The Department, upon a finding of a willful commission of an infraction by the blaster, shall issue to the blaster a written notice to show cause why his certification should not be suspended or revoked for a specified period (not to exceed the term of the certificate).

2) The blaster shall have twenty-one (21) days from the receipt date of the notice or other time period necessary for adequate response as may be set out in the notice, in which to file an answer and request a hearing. If the blaster files an answer to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the show cause order and requests a hearing, a public hearing shall be provided and conducted in accordance with 62 Ill. Adm. Code 1845.13(b), (c), and (d) 1847.1(e) and (g) through (p). The Department shall give thirty (30) days written notice of the date, time and location of the hearing to the Director, Office of Surface Mining, the blaster, and the blaster's employer, and any person who filed a report which led to the order that was issued.

3) If the Department determines that the infraction resulting from the willful act on the part of the blaster creates an imminent danger to the health or safety of the public or imminent damage to public or private property, the Department shall immediately issue a temporary suspension of the blaster's certificate. The temporary suspension shall be in writing, and shall, with reasonable specificity, set forth the nature of the infraction and the imminent danger or damage incurred or about to be incurred. Such suspension shall be subject to a hearing to be provided not less than fifteen (15) days after the blaster's receipt of the temporary suspension. The hearing shall determine whether the suspension shall be continued, terminated or whether the certificate shall be revoked. Temporary suspension issued under the authority of this Subsection shall not exceed fifteen (15) days. The hearing shall be conducted in accordance with 62 Ill. Adm. Code 1845.13(b), (c), and (d) 1847.1(e) and (g) through (p) and shall be held at one of the Department's Offices, Springfield, Illinois, or its field office located at Carverville, Illinois.

4) Upon written notice of revocation, including the findings upon which the notice is based, the blaster shall without delay surrender the revoked certificate to the Department.

(Source: Amended at 20 Ill. Reg. 2151, effective JAN 19 1996)

Section 1850.17 Judicial Review (Repealed)

~~All final administrative decisions of the Department shall be subject to judicial review pursuant to the Illinois Administrative Review Law (Ill. Rev. Stat. 1983, ch. 110, par. 9-19) et seq. as amended.~~

(Source: Repealed at 20 Ill. Reg. 2151, effective JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Underground Mining Permit Applications - Minimum Requirements for Information on Environmental Resources
- 2) Code Citation: 62 Ill. Adm. Code 1783
- 3) Section Numbers Adopted Action
 1783.22 Amend
 1783.25 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments. Published in Illinois Register: 19 Ill. Reg. 1706 - February 17, 1995
- 10) Has JCAB issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".
 In the Authority Note, the Ill. Rev. Stat. cite has been stricken.
 In Section 1783.25(a)(10), ";" has been changed to ".".
 In Section 1783.25(b), all ILCS cites have been put in brackets.
- 12) Have all changes agreed upon by JCAB and the agency been made as indicated in the agreement letter issued by JCAB to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): Section 1783.22, which sets forth land use information to be included in an underground mining permit application, is proposed to be repealed and reorganized at Section 1784.15, consistent with federal rule changes at 59 Fed. Reg. 27932 (May 27, 1994).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1783.25 specified certain information required to be included in an underground mining permit application. Subsections (a)(11)(A), (B) and (C) are proposed to be deleted because they are redundant of information required under Section 1784.15. Subsection (a)(11)(D) is proposed to be relocated to Section 1784.15. The proposed changes are consistent with counterpart federal regulations at 59 Fed. Reg. 27932 (May 27, 1994).

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
 Legal Counsel
 524 South Second St.
 Springfield, IL 62761-1793
 Telephone (217) 752-1829

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- surface within the proposed permit, shadow and adjacent areas;
- 6) Location and extent of subsurface water, if encountered, within the proposed permit or adjacent areas, including, but not limited to areal and vertical distribution of aquifers, and portrayal of seasonal differences of head in different aquifers on cross-sections and contour maps;
- 7) Location and extent of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit, shadow and adjacent areas;
- 8) Location and extent of existing or previously surface-mined areas within the proposed permit area;
- 9) Location and dimensions of existing areas of spoil, waste, coal development waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;
- 10) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit, shadow area and adjacent areas;

11) Sufficient slope measurements to adequately represent the existing and surface configuration of the area affected by surface operations and facilities, measured and recorded according to the following:

A) Reconnaissance shall consist of an angle-of-inclination along the prevailing slope extending one hundred (100) feet above and below the crest of the coal outcrop or the area to be disturbed or where this is impracticable, locations specified by the Department.

B) Where the area has been previously mined, the measurements shall extend at least one hundred (100) feet beyond the limits of mining disturbance or any other representative of the prevailing configuration of the land.

C) Slope measurements shall be taken from a recent natural vegetation to slope to provide accurate representation of the range of natural slopes and reflect geometric differences of the slopes to be disturbed and

D) A series of medium intensity paired topographic spot elevations on contour interval base with a scale of not greater than 1:100,000 shall be obtained for 100-foot and contour interval of not greater than 100-foot intervals, be substituted for subsection (A) through (C).

- b) Maps, plans, and cross-sections included in a permit application and required by this Section shall be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Act-1985-Rev. Stat-1985-ch-117, par. 516-1-517, the Professional Engineering

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Practice Act of 1989, [225 ILCS 325] or a registered professional land surveyor licensed under the Illinois Land Surveyors Act-1985-Rev. Stat-1985-ch-117, par. 323, the Illinois Professional Land Surveyor Act of 1989, [225 ILCS 330], with assistance from experts in related fields such as geology and landscape architecture and shall be updated as required by the Department.

(Source: Amended at 20 Ill. Reg. 2160, effective
JAN 19 1996)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Underground Mining Permit Applications--Minimum Requirements for Reclamation and Operation Plan
- 2) Code Citation: 62 Ill. Adm. Code 1784
- 3) Section Numbers
1784.15 Adopted Action
Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: January 19, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 19, 1996
- 9) Notice of Proposed Amendments Published in Illinois Register: 19 Ill. Reg. 1712 - February 17, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The Chapter heading has been changed to "Department of Natural Resources".
- In the Authority Note, the Ill. Rev. Stat. cite has been stricken.
- In Section 1784.15, the heading, a hyphen has been added between "Post" and "Mining".
- In Section 1784.15(a)(3), "A soils maps of medium intensity" has been changed to "An intensive soils map"; and "Soil" has been replaced with "Natural Resources".
- 12) Have all changes agreed upon by JCAR and the agency been made as indicated in the agreement letter issued by JCAR to the agency? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and Purpose of Rule(s): Section 1784.15 sets forth underground mining reclamation plan requirements, and is being reorganized and amended for consistency with federal counterpart rules at 59 Fed. Reg. 27932 (May 27, 1994). Many of the proposed changes were taken from Section 1783.25,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

portions of which are being deleted in this rulemaking.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Legal Counsel
524 South Second St.
Springfield, IL 62701-1797
(217) 782-1303

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3) An intensive soils map prepared to the specifications of the Natural Resources Conservation Service of a contoured aerial photo with a scale of not smaller than 1"=400' and contour interval of not greater than ten (10) feet.
- b) Post-mining information. Each plan shall contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:
- 1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;
 - 2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under Ill. Adm. Code 91.133; and
 - 3) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable State and local land use plans and programs.
- c) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

(Source: Amended at 20 Ill. Reg. 2166, effective

JAN 19 1996

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Food Service Sanitation Code
- 2) Code Citation: 77 Ill. Adm. Code 750

3) Section Numbers: Adopted Action:

750.10	Amendment
750.110	Amendment
750.120	Amendment
750.140	Amendment
750.160	Amendment
750.180	Amendment
750.185	New Section
750.186	New Section
750.187	New Section
750.189	New Section
750.240	Amendment
750.250	Amendment
750.310	Amendment
750.1610	Amendment
750.2030	Amendment
750.2040	Amendment
750.3200	Amendment

- 4) Statutory Authority: Illinois Food Drug and Cosmetic Act (410 ILCS 620) Sanitary Food Preparation Act (240 ILCS 30) and Food Handling Regulation Enforcement Act (410 ILCS 625)

- 5) Effective Date of Amendments: January 20, 1996

- 6) Does this Rulemaking Contain an Automatic Repeal Date? No

- 7) Does this Rulemaking Contain any Incorporation by Reference? Yes

- 8) Date Filed in Agency's Principal Office: January 20, 1996

- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: January 20, 1995; 19 Ill. Reg. 533

- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No

- 11) Difference Between Proposal and Final Version: Several definitions were added to Section 750.10 in response to comments to clarify terms used in the text of the proposed rules, including "ready-to-eat food", "comminuted meat" and "injected meat". The definition of "ready-to-eat food", in part, includes whole raw fruits and vegetables that are intended for consumption

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

without the need for further washing, such as at a buffet, but excludes whole raw fruits and vegetables offered for retail sale.

In Section 750.110 the requirements for the consumer advisory concerning raw or undercooked animal foods have been revised from the proposed language and the effective date of the advisory will be delayed until July 1, 1996. The revised requirements specify that if entrees or menu items containing raw or undercooked animal food (e.g., steak tartare or Caesar salad containing raw unpasteurized eggs) are routinely offered, the consumer advisory shall clearly identify the food item that contains the raw or undercooked animal food. If a food service establishment does not routinely offer entrees or menu items containing raw or undercooked animal food, but will serve undercooked meat, eggs or seafood upon the request of a consumer/patron, a general consumer advisory shall be provided. In such cases the advisory does not need to identify the food item that a consumer might request in an undercooked condition.

The advisory statement has been modified from the proposed version to read as follows, with additional language recommended, as space permits:

"The Illinois Department of Public Health advises that eating raw or undercooked meat, poultry, eggs, or seafood poses a health risk to everyone, but especially the elderly, young children under age four, pregnant women, and other highly susceptible individuals with compromised immune systems. Thorough cooking of such animal foods reduces the risk of illness."

If space permits, any consumer advisory may include additional language such as the following:

"For further information, contact your physician or public health department."

A note concerning the serving of raw or undercooked food in institutions serving a population of highly susceptible individuals is also included in Section 750.110. "NOTE: Food service establishments whose primary consumers are highly susceptible individuals, such as nursing homes, hospitals, day care centers and nursery schools, shall not serve raw or undercooked animal foods (See Section 750.180(b))."

All sections of the rules where the refrigerated temperature requirement was changed to 40°F in the proposed amendments, have been revised to 41°F to agree with FDA's 1993 Model Food Code. The effective date for all refrigeration temperature changes is July 1, 1996. An alternative to the 41°F refrigeration temperature is provided for refrigeration units unable to maintain a product temperature of 41°F as follows in Section 750.120:

Prior to July 1, 1996, the temperature of potentially hazardous foods

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

shall be 45°F or below or 140°F or above at all times, except as otherwise provided in this part. Effective July 1, 1996, the temperature of potentially hazardous foods shall be 41°F or below or 140°F or above, at all times, except as otherwise provided in this part. Refrigeration units unable to maintain a product temperature of 41°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F or less at all times and all potentially hazardous foods prepared on-site or opened containers/packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively.

The alternative time/temperature arrangement is also provided in Section 750.140, Refrigerated Storage; Section 750.250, Food Display and Service of Potentially Hazardous Food; and 750.2030 Refrigeration Requirements (Reduced Oxygen Packaging). The refrigeration temperature for remote mixing supply systems for frozen dessert dispensers in Section 750.210 has been changed to 41°F, but the 45°F alternative temperature is not allowed for such units.

In Section 750.160 the proposed language requiring food employees to avoid contacting exposed ready to eat food with their bare hands has been revised to recommend that such contact be avoided whenever possible. The revised provision also contains guidelines for proper use of gloves, when used, and requires food service establishments to conduct education and training, to reinforce the importance of proper hand washing, for employees who handle food. These provisions are effective January 20, 1996. Revised Section 750.160 appears as follows:

In an effort to prevent the transmission of pathogenic organisms from humans, food shall be prepared with the least possible manual contact, with suitable utensils and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

a) Food employees shall avoid direct contact (i.e., using bare hands) with ready-to-eat food whenever possible and, to the extent possible, shall handle ready-to-eat food only with suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves. Handling of ready-to-eat food with suitable utensils is not a substitute for proper hand washing. Use of utensils, including deli tissue, spatulas, tongs or single-use gloves, shall be preceded by thorough hand washing.

b) If gloves are used to handle ready-to-eat food, they shall be single-use gloves, i.e., shall be used for only one task (preparing/handling ready-to-eat food), shall be used for no other purpose and shall be discarded when damaged or soiled or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

when interruptions occur in operations.

- c) At least annually, each food service establishment shall review its operations to identify and document any procedures where ready-to-eat food must be routinely handled with bare hands. This annual review shall include the following:

- 1) An identification and listing of those routine procedures/work stations that necessitate direct hand contact with ready-to-eat food. This list shall be made available, upon request, to the Department or any local health department responsible for licensing permitting the establishment.
- 2) Available alternatives to direct hand contact, e.g., use of suitable utensils, sanitizing rinses, etc., shall be considered. If an alternative (e.g., use of a suitable utensil) can be implemented, this procedure/work station shall be removed from the list of routine direct hand contact points.

- 3) Special focused education and training shall be provided to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food.

A new subsection has been added to Section 750.180, Cooking Potentially Hazardous Foods, effective January 20, 1996, to allow cooking to an alternative temperature and time that provides an equivalent heat lethality to the temperatures for cooking potentially hazardous foods established in the rules. The alternative cooking requirements are as follows:

Any alternative temperature and time that provides an equivalent heat lethality provided the alternative method is approved in advance by the Department and confirmed in writing. Requests for alternative cooking time and temperature methods shall be submitted in writing in a format prescribed by the Department. If the Department approves an alternative cooking method, it shall notify local health departments of that approved alternative.

Other sections of the code were amended, including cooking temperature requirements, microwave cooking temperature requirements and cooling time-temperature requirements, in order to keep these sections of the rules consistent with the major changes made in response comments.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

In order to allow time to educate the regulate entities, food handlers, local health department sanitarians, etc., and make the necessary changes included in this rulemaking, it was agreed with representatives of the food service and retail food industry that certain changes, as specified in the rules, should not be effective until July 1, 1996.

In addition, various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee?

All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? No

- 15) Summary and Purpose of Amendments:

Foodborne illness in the United States is a major cause of illness and preventable death. An estimated 24 to 81 million people became ill from microorganisms in food, resulting in an estimated 10,000 needless deaths every year. The Centers for Disease Control and Prevention have consistently reported the factors most frequently implicated in causing foodborne outbreaks as time-temperature control, poor personal hygiene, and cross-contamination. In addition, increasing numbers of individuals with weak or compromised immune systems, including the very young, elderly, patients with certain diseases such as cancer, liver disease and AIDS, and pregnant women, present a segment of the population who are extremely susceptible to foodborne pathogens.

Epidemiological investigations in recent years have identified emerging foodborne pathogens and certain types of foods that were previously not considered a problem. The hundreds of illnesses in Jack in the Box outbreak of E.coli O157:H7 associated with eating undercooked hamburgers is one illustration. Salmonella enteritidis associated with an undercooked egg dish was a problem in a Chicago convention hotel outbreak several years ago involving more than a thousand illnesses. Certain types of food typically eaten raw have caused documented foodborne illness such as Vibrio vulnificus infections from consuming raw oysters and toxoplasmosis (Toxoplasma gondii) from eating raw wild game tartare. Poor personal hygiene and direct hand contact with ready to eat foods

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

frequently the case in fast food establishments have caused foodborne outbreaks of Hepatitis A, *Staphylococcus aureus* intoxication and numerous Norwalk-like viral infections.

This rulemaking addresses these problems from several different fronts. First, cooking times and temperatures for certain high risk foods (hamburgers, wild game, eggs, etc.) will be increased to assure microbiological destruction. Procedures for microwave oven cooking are detailed in the rules because of the risk of uneven cooking resulting in survival of pathogens. Required refrigeration storage temperatures are lowered by 4°F to help retard multiplication of bacteria that could potentially reach high levels during extended storage at higher temperatures.

Another issue that this rulemaking addresses is hand contact with ready-to-eat foods (such as sandwiches, tacos, salads, bread, etc.) that do not receive heat treatment to destroy pathogens at a later time. The rulemaking recommends that food handlers use an appropriate utensil (spoon, fork, tongs, etc.), tissue or waxed paper or single-service plastic or rubber gloves when handling ready-to-eat food, to prevent contamination from being reintroduced to the food. The rulemaking also requires food service establishments to provide special focused education and training to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food.

The proposed rulemaking will also require a written consumer advisory to be displayed at food establishments that offer raw or undercooked animal foods in ready-to-eat form. The consumption of raw or undercooked animal foods presents a significant increase in risk to certain vulnerable populations. The consumer advisory will allow these high risk individuals (the ill, the elderly, the very young, pregnant women, etc.) to become better informed about the potential for foodborne illness and will give them a chance to contact their physician for advice.

- 16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. Devito
Administrative Rules Coordinator
Division of Governmental Affairs
535 West Jefferson
Springfield, Illinois 62761
(217)782-6187

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 750

FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section	Incorporated Materials
750.5	Definitions
750.10	Inspections and Inspection Report
750.20	

SUBPART B: FOOD SUPPLIES

Section	General
750.100	Special Requirements
750.110	General - Food Protection
750.120	General - Food Storage
750.130	Refrigerated Storage
750.140	Hot Storage
750.150	Damaged Food Containers
750.155	General - Food Preparation
750.160	Raw Fruits and Raw Vegetables
750.170	Cooking Potentially Hazardous Foods
750.180	Minimum Food Temperature and Holding Time Required Under Section 750.186(a)(2) for Cooking All Parts of Poultry, Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
750.185	Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
750.186	Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
750.187	Microwave Cooking
750.189	Dry Milk and Dry Milk Products
750.190	Liquid, Frozen, Dry Eggs and Egg Products
750.200	Reheating
750.210	Nondairy Products
750.220	Product Thermometers
750.230	Thawing Potentially Hazardous Foods
750.240	Food Display and Service of Potentially Hazardous Food
750.250	Display Equipment
750.260	Reuse of Tableware
750.270	Disposing Utensils
750.280	Ice Dispensing
750.290	Ice Dispensing
750.300	Condiment Dispensing
750.310	Milk and Cream Dispensing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Re-Service
General - Food Transportation

SUBPART C: PERSONNEL

Section
750.500 General - Employee Health
750.501 General - Personal Cleanliness
750.502 General - Clothing
750.503 General - Employee Practices
750.504 Management Sanitation Training and Certification
750.505 Management Sanitation Certification Examination (Repeated)
750.506 Certificate Issuance
750.507 Certificate Revocation or Suspension

SUBPART D: EQUIPMENT AND UTENSILS

Section
750.600 General - Materials
750.601 Solder
750.602 Wood
750.603 Plastics
750.604 Mollusk and Crustacea Shells
750.605 General - Design and Fabrication
750.606 Accessibility
750.607 In-Place Cleaning
750.608 Thermometers
750.609 Non-Food-Contact Surfaces
750.610 Ventilation Hoods
750.700 General - Equipment Installation and Location
750.701 Table-Mounted Equipment
750.702 Portable Equipment
750.703 Floor-Mounted Equipment
750.704 Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZING, AND STORAGE OF EQUIPMENT AND UTENSILS

Section
750.800 Cleaning Frequency
750.801 Wiping Cloths
750.802 Manual Cleaning and Sanitizing
750.803 Mechanical Cleaning and Sanitizing
750.804 Drying
750.805 Equipment, Utensils, and Tableware Handling
750.806 Equipment, Utensils, and Tableware Storage
750.807 Pre-Set Tableware
750.880 Single-Service Articles

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Prohibited Storage Area

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section
750.890 General - Water Supply
750.1000 Transportation
750.1010 Bottled Water
750.1020 Water Under Pressure
750.1030 Steam
750.1040 General - Sewage Disposal
750.1050 General - Plumbing
750.1060 Nonpotable System
750.1070 Backflow
750.1080 Grease Traps
750.1090 Drains
750.1100 General - Toilet Facilities
750.1110 General - Lavatory Facilities
750.1120 Containers - Garbage and Refuse
750.1130 Garbage and Refuse Storage
750.1140 Disposal of Garbage and Rubbish
750.1150 General - Insect and Rodent Control
750.1160 Protection of Openings Against Entrance of Insects and Rodents
750.1170

SUBPART G: CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES

Section
750.1200 General - Floors
750.1210 General - Walls and Ceilings
750.1220 General - Cleaning Physical Facilities
750.1230 General - Lighting
750.1240 Protective Light Shielding
750.1250 General - Ventilation
750.1260 Special Ventilation
750.1270 Dressing Areas
750.1280 Lockers
750.1290 Poisonous or Toxic Materials Permitted
750.1300 Labeling of Poisonous or Toxic Materials
750.1310 Storage of Poisonous or Toxic Materials
750.1320 Use of Poisonous or Toxic Materials
750.1330 Personal Medications
750.1340 First-Aid Supplies
750.1350 General - Premises
750.1360 Living Areas
750.1370 Laundry Facilities
750.1380 Linens and Clothes Storage
750.1390 Cleaning Equipment Storage

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

750.1400 Animals

SUBPART H: MOBILE FOOD SERVICE

Section
 750.1500 General - Mobile Food Units
 750.1510 Restricted Operation
 750.1520 Single-Service Articles
 750.1530 Water Systems
 750.1540 Waste Retention
 750.1550 Base of Operations
 750.1560 Servicing Area
 750.1570 Servicing Operations

SUBPART I: TEMPORARY FOOD SERVICE

Section
 750.1600 General - Temporary Food Service Establishments
 750.1610 Restricted Operations
 750.1620 Ice
 750.1630 Equipment
 750.1640 Water
 750.1650 Wet Storage
 750.1660 Waste Disposal
 750.1670 Handwashing
 750.1680 Floors
 750.1690 Walls and Ceilings of Food Preparation Areas
 750.1700 Single-Service Articles

SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

Section
 750.1800 General
 750.1810 Instructor Approval
 750.1815 Instructor Denial
 750.1820 Course Content
 750.1830 Course Approval
 750.1835 Make Up Work
 750.1836 Home Study
 750.1837 Course Waiver
 750.1838 Course Denial
 750.1840 Reciprocity
 750.1850 Certification Examination
 750.1855 Testing Criteria
 750.1860 Examination Notification
 750.1861 Class Enrollment Form
 750.1862 Administration of Examination
 750.1865 Monitors

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

750.1868 Cheating
 750.1870 Re-test Class
 750.1876 Dictionary
 750.1880 Retake Examination
 750.1890 Certificates
 750.1895 Change of Address

SUBPART K: REDUCED OXYGEN PACKAGING

Section
 750.2000 General
 750.2010 Acceptable Products
 750.2020 Employee Training
 750.2030 Refrigeration Requirements
 750.2031 Labeling - Refrigeration Statements
 750.2032 Labeling - "Use By" Dates
 750.2040 Safety Barriers
 750.2041 Fish and Fishery Products
 750.2042 Safety Barrier Verification
 750.2050 Hazard Analysis Critical Control Point (HACCP) Program
 750.2060 Precautions Against Contamination
 750.2070 Disposition of Expired Product
 750.2080 Dedicated Area/Pestricted Access

SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

Section
 750.3000 Exceptions
 750.3100 Meat and Poultry Labeling
 750.3200 Smoked Meat, Poultry and Other Food Products

APPENDIX A Retail Food Sanitary Inspection Report
 APPENDIX B Examination Date Notification Form
 APPENDIX C Class Enrollment Form
 APPENDIX D Permission to Retake Certification Examination Form
 APPENDIX E Monitor's Agreement Form

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act (410 ILCS 620) and the Sanitary Food Preparation Act (410 ILCS 650) and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act (410 ILCS 620/21) and Section 11.1 of the Sanitary Food Preparation Act (410 ILCS 650/11.1) and the Food Handling Regulation Enforcement Act (410 ILCS 625).

SOURCE: Adopted December 23, 1975; amended at 2 Ill. Reg. 19, p. 180, effective May 13, 1978; old rules repealed, new rules adopted and codified at 7 Ill. Reg. 1336, effective January 25, 1983; amended at 7 Ill. Reg. 16415, effective November 23, 1983; amended at 11 Ill. Reg. 2345, effective February 1, 1987; amended at 11 Ill. Reg. 18735, effective January 1, 1988; emergency

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

amendment at 12 Ill. Reg. 1493, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 1719, effective December 1, 1988; amended at 13 Ill. Reg. 1819, effective January 30, 1989; amended at 13 Ill. Reg. 18883, effective December 1, 1989; amended at 14 Ill. Reg. 19975, effective January 1, 1991; amended at 14 Ill. Reg. 20536, effective January 1, 1991; amended at 16 Ill. Reg. 15295, effective October 1, 1992; amended at 17 Ill. Reg. 18583, effective October 1, 1993; amended at 20 Ill. Reg. **2171**, effective **JAN 20 1996**.

SCHEDULE A: GENERAL PROVISIONS

Section 750.10 Definitions

The following definitions shall apply in the interpretation and the enforcement of this Part:

"Acceptable product list" means a list of foods, acceptable to the regulatory authority, which because of their characteristics will present a barrier to the growth of *Clostridium botulinum*.

"Barrier" means a safety factor of a physical, biological, or chemical nature which inhibits or minimizes the growth of microorganisms including those which may be infectious or toxigenic.

"Beef cattle mix" (or "Beef Patties" if in patty form) means chopped beef with or without the addition of beef fat as such and/or seasonings.

"Certified food service manager or supervisor" means a person certified in compliance with Section 750.540.

"Cold smoke process" is a smoking process used to apply smoke or a smoke flavor at or below ambient temperature to food products not sufficiently flavored in the original smoking operation.

"Commercially prepared sweet baked goods" means an individually portioned and wrapped, non-potentially hazardous yeast or cake type bread, bun, croissant or roll with or without filling and/or icing.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding or mincing. It includes fish or meat products that are reduced in size and restructured or reformulated, such as defilite fish, formed roasts, beef, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausage made from 2 or more meats.

"Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled,

prepared, packaged or stored.

"Controlled atmosphere packaging (CAP)" means an active packaging system which continuously maintains the desired atmosphere within the package throughout the shelf-life of the product. CAP uses an agent to bind or "scavenge" oxygen permeating the package, or a sachet to emit a gas.

"Cook-chill processing" means a process in which a plastic bag is filled with hot cooked food and the air is expelled while the bag is being sealed before being blast or tumble cooled.

"Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning operations and bactericidal solutions, and other conditions-of-use environments.

"Critical control point" means any point or procedure in a specific food processing or packaging operation where loss of control may result in an unacceptable health risk.

"Dedicated equipment or personnel" means equipment or personnel reserved solely for the use of one food processing operation to prevent cross-contamination.

"Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

"Employee" means individuals having supervisory or management duties, and any other person working in a food service establishment.

"Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meatlocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

"Extensively remodeled" means whenever an existing structure is converted for use as a retail food establishment; any structural additions or alterations to existing establishments; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food contact surface" means those surfaces of equipment and utensils

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back to surfaces normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food contact surfaces.

"Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

"Food service establishment" means any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen type operations that prepare foods intended for individual portion service. The term does not include lodging facilities serving only a continental breakfast (a continental breakfast is one limited to only coffee, tea, and/or juice and commercially prepared sweet baked goods), private homes or a closed family function where food is prepared or served for individual family consumption, retail food stores or the location of food vending machines.

"Full time" means 30 hours per week or the length of time the facility is in operation, whichever is less.

"Ground beef" means chopped or ground beef with or without seasoning and without the addition of beef fat and shall not contain more than 30 percent fat.

"Hamburger" means chopped beef with or without the addition of beef fat and or seasoning and shall not contain more than 30 percent fat.

"Hazard Analysis Critical Control Point (HACCP) program" means a comprehensive food safety control plan which includes a step-by-step description of the food processing, packaging and storage procedure including identification of critical control points (CCPs); the food contact surface cleaning and sanitizing procedures; lot identification procedure; and training procedures.

"Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

"Injected" means manipulating a meat so that infectious or toxigenic

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

microorganisms may be introduced from its surface to its interior through rendering with deep penetration of injecting the meat, such as with juices, which may be referred to as injecting, piping or stitch pumping.

"Kitchenware" means all multi-use utensils other than tableware.

"Law" includes State and local statutes, ordinances, and regulations.

"Lodging facilities" means any hotel, motel, motor inn, lodge, inn or other quarters which provides temporary sleeping facilities open to the public.

"Lot" means unique run of processed or packaged product with a specifically designated date and processing operation.

"Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

"Modified Atmosphere Packaging (MAP)" means a one-time gas-flushing and sealing process. The gas atmosphere within the package after sealing is then allowed to passively change due to factors of container permeability and food product respiration.

"Official Methods of Analysis" means the Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, or Standard Methods for Examination of Dairy Products, 15th Edition, as incorporated in Section 750.5 (d) and (e).

"Operational Supervision" means the on-site supervision and management of the food service facility, operations, and employees.

"Packaged" means bottled, canned, cartoned, or securely wrapped.

"Partially defatted beef fatty tissue" means a beef by-product derived from the low temperature rendering (not exceeding 120 degrees Fahrenheit) of fresh beef tissue. Such product shall have a pinkish color and a fresh odor and appearance.

"Person" includes any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

"Preservative" means any curing agent or curing accelerator (specific chemical agent which extends the shelf life of the product) which cures, accelerates color fixing or preserves color in meat or poultry products including sodium or potassium nitrate, sodium or potassium nitrite, ascorbic acid, erythorbic acid, glucono delta lactone, sodium ascorbate, sodium erythorbate, citric acid, sodium citrate or sodium benzoate.

"Processing" means to manufacture, compound, intermix or prepare food products for sale or for customer service.

"Pushcart" means a non-self-propelled vehicle limited to serving nonpotentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer; and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

Unpackaged potentially hazardous food that is cooked to the temperature and time required for specific food under Section 750.180;

Raw, washed, cut fruit and vegetables;

Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excludes whole raw fruits and vegetables offered for retail sale; and

Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

"Reconstituted" means dehydrated food products recombined with water or other liquids.

"Regulatory authority" means the State and/or local enforcement

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

authority or authorities having jurisdiction over the food service establishment.

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. 301 et seq.), they are "safe" only if they are used in conformity with regulations established pursuant to Section 409 or Section 706 of the Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformity with all applicable regulations of the Food and Drug Administration.

"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level (when those disease organisms which may be present are destroyed so as to prevent transfer) on cleaned food-contact surfaces of utensils and equipment.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Showering" means a potable water spray with or without liquid smoke in the smoke house which, depending on when the water spray is applied, maintains humidity, flavors, decreases cooking time, promotes rapid cooling or reduces casing shrinkage.

"Single service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

"Smoke generator" means a piece of equipment attached or integral to a smoke house which provides smoke to the smoke house, usually by slowly augering sawdust onto a heating element with the resulting smoke being drawn into the smokehouse.

"Smoke house" means a piece of equipment or room sized enclosure used to conduct the smoking process with a smoke source, adequate ventilation, heat and humidity source if necessary, approved plumbing and waste lines if necessary, support structures for the food products to be smoked and a method to determine internal product temperature.

"Smoking" means the process of subjecting meat cuts and other foods to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

an environment of heat and smoke generated from hardwood, hardwood sawdust, corn cobs or natural liquid smoke that has been transformed into a gaseous state by application of direct heat.

"Tactileware" means multi-use eating and drinking utensils.

"Temporary food service establishment" means food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

"Utensil" means any implement used in the storage, preparation, transportation, or service of food.

(Source: Amended at 20 Ill. Reg. **2171**, effective
— JAN 20 1996 —)

SUBPART B: FOOD SUPPLIES

Section 750.110 Special Requirements

- a) Fluid milk and fluid-milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law.
- b) Dry milk and dry-milk products shall be pasteurized.
- c) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker/packer, or repacker, and the interstate certification number issued according to the law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by the attached tag that states the name and address of the original shell stock processor, the repacker or reshipper, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency. Each tag affixed to a container of certified shell stock along with its accompanying invoice and each shucked shellfish invoice shall be retained for a period of 90 days and be made available for inspection by the health department.
- d) Only clean whole Grade A eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard boiled peeled eggs, commercially prepared and packaged may be used.
- e) All meat of mammalian and avian origin shall be inspected and approved as human food by the Illinois Department of Agriculture or the United States Department of Agriculture and bear the stamp or mark as required by the aforementioned departments.
- f) Each retail food establishment location shall obtain written

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

permission from the appropriate regulatory authority responsible for retail food protection in that jurisdiction before packaging foods in a reduced oxygen atmosphere. Reduced oxygen packaging shall consist of cook-chill processing, vacuum packaging, modified atmosphere packaging (MAP) or controlled atmosphere packaging (CAP). The request from the retail establishment and approval from the regulator shall be product specific and shall be issued according to the requirements listed in Subpart K of this Part.

f) Every food pre-packaged in advance of retail sale must bear the following information in English on its label:

- 1) The common and/or usual name of the product;
- 2) The name, address and zip code of the manufacturer, processor, packer, preparer or distributor;
- 3) The net contents of the package;
- 4) A list of ingredients in the order of their predominance by weight with ingredients shown by their common or usual name; and
- 5) A list of any artificial color, artificial flavor or preservative used.

g) Foods packaged or repackaged by charitable or not-for-profit organizations for distribution to people in need shall bear the common and/or usual name of the product and the name of the distributing organization. A list of ingredients for any multi-ingredient product shall be posted or made available upon request. Prepared, ready-to-eat foods donated by food service establishments to charitable or not-for-profit organizations are exempt from the ingredient listing requirements of this subsection.

h) The processing and labeling of ground meats, poultry and other meat/poultry products shall be done in compliance with Subpart L of this Part.

i) Pasteurized soft serve mix and frozen desserts shall comply with the Standards listed below.

Product	Bacterial standard plate count not more than	Coliform determination not more than	Storage temperature
Mix	50,000 m.*	10/ml	45°F or less
Frozen Dessert Plain	50,000 m.*	10/ml	Frozen
Frozen Dessert Flavored	50,000 m.*	20/ml	Frozen

The products shall be tested in accordance with tests and examinations contained in the 15th edition of Official Methods of Analysis of the Association of Official Analytical Chemists or in the 15th edition of Standard Methods for the Examination of Dairy Products.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

*Except frozen yogurt with live culture added.

1) Consumer Advisory. Effective July 1, 1996, if a food service establishment offers any raw or under-cooked animal food, such as meat, poultry, eggs or seafood (including shellfish), in ready-to-eat form or offers any ready-to-eat food containing animal food as an ingredient, the food service establishment operator shall advise consumers of the presence of such raw or under-cooked animal food and advise consumers of the increased health risk of eating such foods in raw or under-cooked form, especially for certain populations.

1) If entrees or menu items containing such raw or under-cooked animal food (e.g., steak tartare or Caesar salad containing raw unpasteurized eggs) are routinely offered, such consumer advisory shall clearly identify the food item that contains the raw or under-cooked animal food.

2) If a food service establishment does not routinely offer entrees or menu items containing raw or under-cooked animal food, but will serve under-cooked meat, eggs or seafood upon the request of a consumer, a general consumer advisory shall be provided. This advisory does not need to identify the food item that a consumer might request in an under-cooked condition.

3) The required consumer advisory may be in the form of a brochure, deli case or menu advisory, label, statement, table tent, placard or other written notification that is visible to patrons. The advisory shall include the following:

"The Illinois Department of Public Health advises that eating raw or under-cooked meat, poultry, eggs or seafood poses a health risk to everyone, but especially to the elderly, young children under age 4, pregnant women, and other highly susceptible individuals with compromised immune systems. Thorough cooking of such animal foods reduces the risk of illness."

4) If space permits, any consumer advisory may include additional language such as the following:
"For further information, contact your physician or public health department."

5) NOTE: Food service establishments whose primary consumers are highly susceptible individuals, such as nursing homes, hospitals, day care centers and nursery schools, shall not serve raw or under-cooked animal foods (see Section 750.180(b)).

(Source: Amended at 20 Ill. Reg. 2171, effective

JAN 20 1996

Section 750.120 General - Food Protection

a) At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. Prior to July 1, 1996, the temperature of potentially hazardous foods shall be 45 degrees F or below or 140 degrees F or above at all times, except as otherwise provided in this part. Effective July 1, 1996, the temperature of potentially hazardous foods shall be 45 degrees F or below, or 140 degrees F or above, at all times except as otherwise provided in this part. Refrigeration units unable to maintain a product temperature of 45°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F or less at all times and all potentially hazardous foods prepared on-site or opened containers/packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively. In the event the dated product is not used or sold within 3 days, the product shall be discarded.

b) In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

(Source: Amended at 20 Ill. Reg. 2171, effective

JAN 20 1996

Section 750.140 Refrigerated Storage

a) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated storage facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus 3 degrees F, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus 3 degrees F, may be used in lieu of indicating thermometers.

b) Prior to July 1, 1996, potentially hazardous food requiring refrigeration after preparation shall be labeled or tagged with the date and time of preparation and rapidly cooled to an internal temperature of 45 degrees F or below. Effective July 1, 1996, potentially hazardous food shall be labeled or tagged with the date and time of preparation and rapidly cooled to an internal temperature of 45°F, unless the food is cooled to an internal temperature of 45°F and refrigerated at 45°F for no more than three days as specified in Section 750.120. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

utilizing such methods as limiting depth of food to 4 inches or less, agitation, quick chilling or water circulation external to the food container so that the cooking period shall not exceed 4 hours. Prior to July 1, 1996, potentially potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45 degrees F. or below unless maintained in accordance with the hot storage requirements contained in Section 750.150. Effective July 1, 1996, potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 41°F or below unless maintained in accordance with the hot storage requirements contained in Section 750.150.

1) Effective July 1, 1996, cooked potentially hazardous food shall be cooled:

- A) From 140°F (60°C) to 70°F (21°C) within 2 hours; and
- B) From 70°F (21°C) to 41°F (4.5°C) or below, within 4 more hours (or within a total of 6 hours).

2) Effective July 1, 1996, potentially hazardous food shall be cooled to 41°F (4.5°C) or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

3) Effective July 1, 1996, fluid milk and milk products, shell eggs, and molluscan shellstock received in compliance with laws regulating the respective food during shipment from the supplier shall be cooled to 41°F (4.5°C) or below within 4 hours.

c) Frozen foods shall be kept frozen and should be stored at a temperature of 0 degrees F. or below.

d) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

e) Upon delivery, intact shell eggs shall be stored at a temperature of 45 degrees Fahrenheit or less, prior to July 1, 1996. Effective July 1, 1996, upon delivery, intact shell eggs shall be stored at a temperature of 41°F or less, unless the eggs are dated and refrigerated at 45°F for no more than three days as specified in Section 750.120.

(Source: Amended at 20 Ill. Reg. 2171, effective

JAN 20 1996

Section 750.160 General - Food Preparation

In an effort to prevent the transmission of pathogenic organisms from humans, food shall be prepared with the least possible manual contact, with suitable utensils and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

a) Food employees shall avoid direct contact (i.e., using bare hands)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

with ready-to-eat food whenever possible and, to the extent possible, shall handle ready-to-eat food only with suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves. Handling of ready-to-eat food with suitable utensils is not a substitute for proper hand washing. Use of utensils, including deli tissue, spatulas, tongs or single-use gloves, shall be preceded by thorough handwashing.

b) If gloves are used to handle ready-to-eat food, they shall be single-use gloves, i.e., shall be used for only one task (preparing handling ready-to-eat food), shall be used for no other purpose and shall be discarded when damage or soiled or when interruptions occur in operations.

c) At least annually, each food service establishment shall review its operations to identify and document any practices where ready-to-eat food must be routinely handled with bare hands. This annual review shall include the following components:

1) Those routine procedures work stations that necessitate direct hand contact with ready-to-eat food. This list shall be made available, upon request, to the Department of an local health department responsible for licensing permitting the establishment.

2) Available alternatives to unprotected direct hand contact, e.g., use of suitable utensils, FDA-approved sanitizing hand rinses, etc., shall be considered. If an alternative (e.g., use of a suitable utensil) can be implemented, this procedure work station shall be removed from the list of routine direct hand contact points.

3) Special focused education and training shall be provided to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food. The content and duration of this focused education and training shall be determined by the food service operator.

(Source: Amended at 20 Ill. Reg. 2171, effective

JAN 20 1996

Section 750.180 Cooking Potentially Hazardous Foods

Potentially hazardous foods requiring cooking shall be cooked to a minimum of the food to a temperature of at least 145 degrees F. except that:

- a) Poultry, poultry stuffing, stuffed meats and stuffed vegetables containing meat shall be cooked to meet all parts of the food to at least 165 degrees F. with no interruption of the cooking process.

b) Pork and pork products shall be cooked to meet all parts of the food to at least 156 degrees F. or 157 degrees F. cooked in a microwave oven, to at least 170 degrees F.

c) When beef, veal or lamb is cooked in a microwave oven, it shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

heat-over the oven-shall-be-prevented-to-and-held-at-an-temperature of at least 550-degrees F-throughout-the-process--in-a container-over-the-oven-shall-be-prevented-to-and-held-at-an-temperature of at least 350-degrees F-throughout-the-process

When-besides-of 10-pounds-over-the-oven-shall-be-prevented-to-and-held-at-an-temperature of at least 550-degrees F-throughout-the-process

Butter-in-need-to-meet-the-public-health-requirements-for-the-process-shall-be-over-the-oven-shall-be-prevented-to-and-held-at-an-temperature of at least 350-degrees F-throughout-the-process

be-held-at-such-temperature

Minimum Holding Times for Beef Roasts
in Various Internal Temperatures

Minimum Internal Temperature	Minimum Holding Time	Minimum Holding Time
130	121	19
131	97	15
132	77	12
133	62	10
134	47	8
135	37	6
136	32	5
137	24	

Beef-roasts-if-cooked-in-a microwave-oven-shall-be-cooked-to-an-internal-temperature of at least 145-degrees F

a) Raw animal foods, such as eggs, fish, poultry, meat, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to the following temperatures and times, except as specified in subsections (b) and (c) of this Section:

- 1) 145°F (63°C) or above for 15 seconds for:
 - A) Shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and
 - B) Fish and meat that are not specified in subsections (a)(2), (3) and (4) of this Section;
- 2) For pork and game animals, comminuted fish and meats, injected meats, and shell eggs that are not prepared for immediate service, 150°F (68°C) for 15 seconds or the temperature specified in Section 750.185 that corresponds to the cooking time;
- 3) As specified in Section 750.187 for roasts of beef and corned beef.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

4) 165°F (74°C) or above for 15 seconds for field-dressed wild game animals, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat, or poultry; or

5) Any alternative temperature and time that provides an equivalent heat lethality provided the alternative method is approved in advance by the Department and confirmed in writing. Requests for alternative cooking time and temperature methods shall be submitted in writing and be formally described by the Department. If the Department approves an alternative cooking method, it shall notify the producer of its approval and inform local health departments of that approved alternative.

b) Raw and undercooked animal foods that are served or offered for sale in a ready-to-eat form are exempt from the cooking requirements of subsections (a)(1) through (5) of this Section, provided the food establishment serving the food follows the cooking requirements specified in Section 750.180(1). Examples of this type of food include raw marinated fish; raw molluscan shellfish; steak tartare; lightly cooked fish; rare meat; and soft-cooked eggs. Establishments such as nursing homes, hospitals, day care centers and nursery schools that serve a highly susceptible population, including the elderly, young children under age four, pregnant women, and individuals who are ill or have compromised immune systems shall not serve raw or undercooked animal foods, or must comply with subsections (a)(1) through (5) of this Section.

c) Beef roasts shall be cooked:

- 1) In an oven that is preheated to the temperature specified for their weight in Section 750.186 and that is held at, or above, that temperature; and
- 2) To a food temperature as specified in Section 750.187 and held for the corresponding amount of time specified in Section 750.187 for that temperature.

(Source: Amended at 20 Ill. Reg. 2171, effective
JAN 20 1996)

Section 750.185 Minimum Food Temperature and Holding Time Required Under Section 750.180(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats

Temperature of °F (°C)	Minimum Time
145 (63)	3 minutes
150 (66)	1 minute

(Source: Added at 20 Ill. Reg. 2171, effective

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JAN 20 1996

Section 750.186. Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef

Oven Type	Oven Temp(2)	Roast Weight
		Less than or equal to 4.5 kg (10 lbs.)
Still Dry Convection	350°F (177°C)	Greater than 4.5kg (10 lbs.)
High Humidity(1)	325°F (163°C)	250°F (121°C)
	< 250°F (121°C)	325°F (163°C)
		< 250°F (121°C)

(1) Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven or in a moisture-impermeable bag that provides 100% humidity.

(2) Refer to Section 750.187 for minimum holding time requirements

(Source: Added, ~~amend~~ at 20 Ill. Reg. 2171, effective JAN 20 1996)

Section 750.187. Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef

Temp.(2) °F(°C)	Time(1) minutes	Temp.(2) °F(°C)	Time(1) minutes	Temp.(2) °F(°C)	Time(1) minutes
130(54)	121 minutes	136(58)	32 minutes	142(61)	8 minutes
132(56)	77 minutes	138(59)	19 minutes	144(62)	5 minutes
134(57)	47 minutes	140(60)	12 minutes	145(63)	3 minutes

(1) Holding time may include postoven heat rise

(2) Refer to Section 750.186 for minimum holding time requirements

(Source: Added at 20 Ill. Reg. 2171, effective JAN 20 1996)

Section 750.189. Microwave Cooking

Raw animal foods cooked in a microwave oven shall be:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JAN 20 1996

- a) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
 b) Covered to retain surface moisture;
 c) Heated an additional 25°F (11°C) above the temperature specified in Section 750.180(a)(1), (2) and (4) to compensate for shorter cooking times; and
 d) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

(Source: Added at 20 Ill. Reg. 2171, effective JAN 20 1996)

Section 750.240. Thawing Potentially Hazardous Foods

Potentially hazardous foods shall be thawed:

- a) In refrigerated units in a way that the temperature of the food does not exceed 45°F (7°C), prior to July 1, 1996, and 41°F, effective July 1, 1996; or
 b) Under potable running water at a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the over-flow; or
 c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or
 d) As part of the conventional cooking process.

(Source: Amended at 20 Ill. Reg. 2171, effective JAN 20 1996)

Section 750.250. Food Display and Service of Potentially Hazardous Food

Prior to July 1, 1996, potentially ~~potentially~~ hazardous foods shall be kept at an internal temperature of 45°F (7°C) or below or at an internal temperature of 140°F (60°C) or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130°F (54°C). Effective July 1, 1996, potentially hazardous foods shall be held during display and service at an internal temperature of 41°F or below, unless the foods are dated and refrigerated at 45°F for no more than three days as specified in Section 750.120, or held during display and service at an internal temperature of 140°F or above, except that rare roast beef shall be held for service at a temperature of at least 130°F.

(Source: Amended at 20 Ill. Reg. 2171, effective JAN 20 1996)

Section 750.310. Milk and Cream Dispensing

THE HISTORY OF THE

NOTICE OF ADJUDICATED AMENDMENTS

- a) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where bulk milk is dispensed for milk and milk products is not available, and portions of less than one-half pint are required for mixed drinks, cereals, or dessert service, milk and milk products may be poured from a commercially-filled container of not more than one-half gallon capacity.
- b) Milk and milk products for drinking purposes in hospitals, nursing homes or day care centers may be dispensed from commercially filled containers into individual serving vessels by food service personnel for service to the consumer.
- c) Cream or half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(Source: Amerged at 20 Ill. Reg. 2171, effective
— JAN 20 1996)

Section 750.1610 Restricted Operations

- a) This section is applicable whenever a temporary food service establishment is permitted, under the provisions of Section 750.16.0 to operate without complying with all the requirements of this Part.
- b) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters, which require searing and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that has been prepared and packaged under conditions meeting the

HUTCHINSON & HENNINGSON

NOTES OF ADDRESS TO THE MEMBERS OF THE SOCIETY OF THE HISTORY OF THE CITY OF NEW YORK

[illegible]

SUBJECTS

Section 750.2030 Refrigeration Requirements

[illegible]

(Source: American Reg. Ill. 2171, effective JAN 20 1988)

Section 750.2040 Safety Barriers

Prior to July 1, 1966, refrigeration at zero degrees Fahrenheit or less is required as the primary safety barrier. Effective July 1, 1966, all retail processed foods in reduced oxygen packages shall be refrigerated at 40 degrees Fahrenheit or below at all times, except as otherwise provided in Section 90.03. Only refrigerated foods that possess one or more of the following secondary safety barriers can be packaged in a reduced oxygen atmosphere at retail sale:

(Source: Amended at 20 Ill. Reg. 2171, effective

SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 750.3200 Smoked Meat, Poultry and Other Food Products

- a) Any smoking operation shall comply with all other applicable requirements of this Part.
- b) Approved materials for use with a smoke generator include hardwood, hardwood sawdust, corn cobs, and natural liquid smoke. Products approved by U.S.D.A., FDA or the Illinois Department of Agriculture meet these safety requirements.

- c) The internal temperature of any smoked product shall comply with the requirements of Section 750.180 (Cooking Potentially Hazardous Foods).
- 1) Automatic recording thermometers with internal product temperature probes or a metal-stemmed thermometer shall be available and used whenever product is smoked.
 - 2) Product to be smoked shall be uniformly sized to ensure that each piece reaches the required end cooking temperature.
 - 3) When a cold smoking process is used for cosmetic purposes, that is, to add smoke color or flavor to a pre-cooked product, the cold smoke process must be of such duration that the product temperature remains at or below 45°F degrees Fahrenheit prior to July 1, 1996, and at or below 40°F degrees Fahrenheit after July 1, 1996.

- d) A Hazard Analysis Critical Control Point program shall be available in the processing area to describe the smoking process. It shall consist of written procedures describing the preparation, smoking, handling, packaging and holding of the smoked products. It shall include, at a minimum:
- 1) Defrosting procedures, if used;
 - 2) Time Temperature requirements for cooking and smoking;
 - 3) Cooling procedures;
 - 4) Identification of the critical control points in the procedure with a description of how these will be monitored and controlled;
 - 5) Designation of a dedicated work area where raw product is handled and a separate work area for cooked or smoked product to prevent cross-contamination;
 - 6) Description of the cleaning and sanitizing procedures, including frequency; and
 - 7) Samples of labels with all ingredients contained in the product.

(Source: Amended at 20 Ill. Reg. effective
JAN 20 1996)

2171

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Retail Food Store Sanitation Code2) Code Citation: 77 Ill. Adm. Code 7603) Section Numbers: Adopted Action:

760.20 Amendment
760.110 Amendment
760.120 Amendment
760.150 Amendment
760.170 Amendment
760.190 Amendment
760.195 New Section
760.196 New Section
760.197 New Section
760.199 New Section
760.230 Amendment
760.240 Amendment
760.2030 Amendment
760.2040 Amendment
760.3200 Amendment

4) Statutory Authority:

Illinois Food Drug and Cosmetic Act (410 ILCS 620)

Sanitary Food Preparation Act (240 ILCS 30)

Food Handling Regulation Enforcement Act (410 ILCS 625)

5) Effective Date of Amendments: January 20, 19966) Does this Rulemaking Contain an Automatic Repeat Date? No7) Does this Rulemaking Contain any Incorporation by Reference? Yes8) Date Filed in Agency's Principal Office: January 20, 19969) Date Notice of Proposed Rulemaking was Published in the Illinois Register: January 20, 1995; 19 Ill. Reg. 55110) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? NO11) Difference Between Proposal and Final Version:

Several definitions were added to Section 760.20 in response to comments to clarify terms used in the text of the proposed rules, including

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"ready-to-eat food," "contaminated meat" and "injected meat". The definition of "ready-to-eat food", in part, includes whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excludes whole raw fruits and vegetables offered for retail sale.

In Section 760.110 the requirements for the consumer advisory concerning raw or undercooked animal foods have been revised from the proposed language and the effective date of the advisory will be delayed until July 1, 1996. The revised requirements specify that if entrées or menu items containing raw or undercooked animal food (e.g., steak tartare or Caesar salad containing raw unpasteurized eggs) are routinely offered, the consumer advisory shall clearly identify the food item that contains the raw or undercooked animal food, is a food service establishment does not routinely offer entrées or menu items containing raw or undercooked animal food, but will serve undercooked meat, eggs or seafood upon the request of a consumer patron, a general consumer advisory shall be provided. In such cases the advisory does not need to identify the food item that a consumer might request in an undercooked condition.

The advisory statement has been modified from the proposed version to read as follows, with additional language recommended, as space permits:

"The Illinois Department of Public Health advises that eating raw or undercooked meat, poultry, eggs, or seafood poses a health risk to everyone, but especially the elderly, young children under age four, pregnant women, and other highly susceptible individuals with compromised immune systems. Thorough cooking of such animal foods reduces the risk of illness."

If space permits, any consumer advisory may include additional language such as the following:

"For further information, contact your physician or public health department."

All sections of the rules where the refrigerated temperature requirement was changed to 40°F in the proposed amendments, have been revised to 41°F to agree with FDA's 1993 Model Food Code. The effective date for all refrigeration temperature changes is July 1, 1996. An alternative to the 41°F refrigeration temperature is provided for refrigeration units unable to maintain a product temperature of 41°F as follows in Section 760.120:

Prior to July 1, 1996, the temperature of potentially hazardous foods shall be 45°F or below or 140°F or above at all times, except as otherwise provided in this part. Effective July 1, 1996, the temperature of potentially hazardous foods shall be 41°F or below or 140°F or above, at all times, except as otherwise

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

provided in this part. Refrigeration units unable to maintain a product temperature of 41°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F, or less at all times and all potentially hazardous foods prepared on-site or opened contained packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively.

The alternative time temperature arrangement is also provided in Section 760.150, Refrigerated Storage, Section 760.240, Displaying Potentially Hazardous Foods, and 760.230 Refrigeration Requirements (Reduced Oxygen Packaging).

In Section 760.170 the proposed language requiring food employees to avoid contacting exposed ready-to-eat food with their bare hands has been revised to recommend that such contact be avoided whenever possible. The revised provision also contains guidelines for proper use of gloves, when used, and requires food service establishments to conduct education and training, to reinforce the importance of proper hand washing, for employees who handle food. These provisions are effective January 20, 1996. Revised Section 760.160 appears as follows:

In an effort to prevent the transmission of pathogenic organisms from humans, food shall be prepared with the least possible manual contact, with suitable utensils and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

- a) Food employees shall avoid direct contact (i.e., using bare hands) with ready-to-eat food whenever possible and, to the extent possible, shall handle ready-to-eat food only with suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves. Handling of ready-to-eat food with suitable utensils is not a substitute for proper hand washing. Use of utensils, including deli tissue, spatulas, tongs or single-use gloves, shall be preceded by thorough hand washing.
- b) If gloves are used to handle ready-to-eat food, they shall be single-use gloves, i.e., shall be used for only one task (preparing/handling ready-to-eat food), shall be used for no other purpose and shall be discarded when damaged or soiled or when interruptions occur in operations.
- c) At least annually, each food service establishment shall review its operations to identify and document any procedures where ready-to-eat food must be routinely handled with bare hands. This annual review shall include the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) An identification and listing of those routine procedures work stations that necessitate direct hand contact with ready-to-eat food. This list shall be made available, upon request, to the Department or any local health department responsible for licensing/permitting the establishment.
- 2) Available alternatives to direct hand contact, e.g., use of suitable utensils, sanitizing rinses, etc., shall be considered. If an alternative (e.g., use of a suitable utensil) can be implemented, this procedure/work station shall be removed from the list of routine direct hand contact points.
- 3) Special focused education and training shall be provided to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food.

A new subsection has been added to Section 760.190, Cooking Potentially Hazardous Foods, effective January 20, 1996, to allow cooking to an alternative temperature and time that provides an equivalent heat lethality to the temperatures for cooking potentially hazardous foods established in the rules. The alternative cooking requirements are as follows:

Any alternative temperature and time that provides an equivalent heat lethality provided the alternative method is approved in advance by the Department and confirmed in writing. Requests for alternative cooking time and temperature methods shall be submitted in writing in a format prescribed by the Department. If the Department approves an alternative cooking method, it shall notify local health departments of that approved alternative.

Other sections of the code were amended, including cooking temperature requirements, microwave cooking temperature requirements and cooling time-temperature requirements, in order to keep these sections of the rules consistent with the major changes made in response to comments.

In order to allow time to educate the regulated entities, food handlers, local health department sanitarians, etc., and make the necessary changes included in this rulemaking, it was agreed with representatives of the food service and retail food industry that certain changes, as specified in the rules, should not be effective until July 1, 1996.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

In addition, various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

All changes agreed upon by the Department and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee.

- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? No

- 15) Summary and Purpose of Amendments:

Foodborne illness in the United States is a major cause of illness and preventable death. An estimated 24 to 81 million people became ill from microorganisms in food, resulting in an estimated 10,000 needless deaths every year. The Centers for Disease Control and Prevention have consistently reported the factors most frequently implicated in causing foodborne outbreaks as time-temperature control, poor personal hygiene, and cross-contamination. In addition, increasing numbers of individuals with weak or compromised immune systems, including the very young, elderly, patients with certain diseases such as cancer, liver disease and AIDS, and pregnant women, present a segment of the population who are extremely susceptible to foodborne pathogens.

Epidemiological investigations in recent years have identified emerging foodborne pathogens and certain types of foods that were previously not considered a problem. The hundreds of illnesses in Jack in the Box outbreak of *E. coli* O157:H7 associated with eating undercooked hamburgers is one illustration. *Salmonella enteritidis* associated with an undercooked egg dish was a problem in a Chicago convention hotel outbreak several years ago involving more than a thousand illnesses. Certain types of food typically eaten raw have caused documented foodborne illness such as *Vibrio vulnificus* infections from consuming raw oysters and toxoplasmosis (*Toxoplasma gondii*) from eating raw wild game tartare. Poor personal hygiene and direct hand contact with ready to eat foods, frequently the case in fast food establishments have caused foodborne outbreaks of Hepatitis A, *Shigella*, *Legionella*, and numerous Norwalk-like viral infections.

This rulemaking addresses these problems from several different fronts. First, cooking times and temperatures for certain high risk foods (hamburgers, wild game, eggs, etc.) will be increased to assure microbiological destruction. Procedures for microwave oven cooking are

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 760
RETAIL FOOD STORE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
760.10	Incorporated Materials
760.15	Definitions
760.20	Inspections and Inspection Report

SUBPART B: FOOD

Section	General - Food Supplies
760.100	Special Requirements for Food Supplies
760.110	General - Food Protection
760.120	Emergency Occurrences
760.130	General - Food Storage
760.140	Refrigerated/Frozen Storage
760.150	Hot Storage
760.160	Damaged Food Containers
760.170	General - Food Preparation
760.180	Preparing Raw Fruits and Raw Vegetables
760.190	Cooking Potentially Hazardous Foods
760.195	Minimum Food Temperature and Holding Time Required Under Section 760.190(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
760.196	Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
760.197	Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
760.198	Microwave Cooking
760.200	Bakery Product Fillings
760.210	Reheating
760.220	Food Product Thermometers
760.230	Thawing Potentially Hazardous Foods
760.240	Displaying Potentially Hazardous Foods
760.250	Displaying Frozen Foods
760.260	Food Display
760.270	Dispensing Utensils
760.280	Food Sample Demonstrations and Food Promotions
760.290	General - Food Transportation by the Retail Food Store

detailed in the rules because of the risk of uneven cooking resulting in survival of pathogens. Required refrigeration storage temperatures are lowered by 10° to help retard multiplication of bacteria that could potentially reach high levels during extended storage at higher temperatures.

Another issue that this rulemaking addresses is hand contact with ready-to-eat foods (such as sandwiches, tacos, salads, bread, etc.) that do not receive heat treatment to destroy pathogens at a later time. The rulemaking recommends that food handlers use an appropriate utensil (spoon, fork, tongs, etc.), tissue or waxed paper or single-service plastic or rubber gloves when handling ready-to-eat food, to prevent contamination from being reintroduced to the food. The rulemaking also requires food service establishments to provide special focused education and training to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food.

The proposed rulemaking will also require a written consumer advisory to be displayed at food establishments that offer raw or undercooked animal foods in ready-to-eat form. The consumption of raw or undercooked animal foods presents a significant increase in risk to certain vulnerable populations. The consumer advisory will allow these high risk individuals (the ill, the elderly, the very young, pregnant women, etc.) to become better informed about the potential for foodborne illness and will give them a chance to contact their physician for advice.

Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Governmental Affairs
535 West Jefferson
Springfield, Illinois 62761
(217) 782-6187

The full text of the Adopted Amendments begins on the next page.

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: PERSONNEL

Section

760.400 General - Employee Health
760.410 General - Personal Cleanliness
760.420 General - Clothing
760.430 General - Employee Practices

760.910

Water Delivery

760.920

Water Under Pressure

760.930

Steam

760.940

General - Sewage

760.950

General - Plumbing

760.960

Nonpotable Water System

760.970

Backflow

760.980

Grease Traps

760.990

Garbage Grinders

760.1000

Drains

760.1010

Toilet Installation

760.1020

Toilet Design

760.1030

Toilet Rooms

760.1040

Toilet Facility Maintenance

760.1050

Handwashing Facility Installation

760.1060

Handwashing Facility Faucets

760.1070

Handwashing Supplies

760.1080

Handwashing Facility Maintenance

760.1090

Handwashing Facility Maintenance

760.1100

Garbage and Refuse Containers

760.1110

Garbage and Refuse Container Storage

760.1120

Garbage and Refuse Disposal

760.1130

General - Insect and Rodent Control
Openings to be Protected Against Entry of Rodents and Insects

SUBPART D: EQUIPMENT AND UTENSILS

Section

760.500 General - Materials

760.510

Solder

760.520

Wood

760.530

Plastics and Rubber Materials

760.540

Cutting Surfaces

760.550

Single-Service Articles

760.560

General - Design and Fabrication

760.570

Accessibility

760.580

Cleaned in Place (CIP)

760.590

Food Product Thermometers

760.600

Non-Food-Contact Surfaces

760.610

Ventilation Hoods

760.620

Maintenance of Equipment and Utensils

760.630

General - Equipment Installation and Location

760.640

Table-Mounted Equipment

760.650

Floor-Mounted Equipment

760.660

Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZATION,
AND STORAGE OF EQUIPMENT AND UTENSILS

Section

760.700 Cleaning Frequency

760.710

Wiping Cloths

760.720

Manual Cleaning and Sanitizing

760.730

Mechanical Cleaning and Sanitizing

760.740

Drying

760.750

Retail Food Stores Without Equipment and Utensil Cleaning Facilities

760.760

Equipment and Utensil Handling

760.770

Equipment and Utensil Storage

760.780

Single-Service Articles Handling and Storage

760.790

Prohibited Storage Areas

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section

760.900 General - Water Supply

SUBPART G: CONSTRUCTION AND MAINTENANCE
OF PHYSICAL FACILITIES

Section

760.1200 Floor Construction

760.1210

Floor Carpeting

760.1220

Prohibited Floor Covering

760.1230

Mats and Duckboards

760.1240

Utility Line Installation

760.1250

Wall and Ceiling Maintenance

760.1260

Wall and Ceiling Construction

760.1270

Exposed Construction of Walls and Ceilings

760.1280

Utility Line Installation in or on Walls and Ceilings

760.1290

Attachments to Walls and/or Ceilings

760.1300

Wall and Ceiling Covering Material Installation

760.1310

General - Cleaning Physical Facilities

760.1320

Service Sinks for Cleaning

760.1330

General - Lighting

760.1340

Protective Light Shielding

760.1350

General - Ventilation

760.1360

Dressing Rooms and Areas

760.1370

Locker Areas

760.1380

Poisonous or Toxic Materials Permitted

760.1390

Labeling of Poisonous or Toxic Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

760.1400 Storage of Poisonous or Toxic Materials
 760.1410 Use of Poisonous or Toxic Materials
 760.1420 Storage and Display of Poisonous or Toxic Materials for Retail Sale
 760.1430 First-Aid Supplies and Personal Medications
 760.1440 General - Premises
 760.1450 Living Areas
 760.1460 Laundry Facilities
 760.1470 Linens and Work Clothes Storage
 760.1480 Cleaning Equipment Storage
 760.1490 Animals

SUBPART H: NEW FACILITIES AND EXISTING EQUIPMENT AND FACILITIES

Section
 760.1600 New Facilities
 760.1610 Existing Equipment and Facilities

SUBPART I: TEMPORARY RETAIL FOOD STORES

Section
 760.1700 General - Temporary Retail Food Stores
 760.1710 Restricted Operations
 760.1720 Wet Storage
 760.1730 Waste Disposal
 760.1740 Handwashing
 760.1750 Floors
 760.1760 Ceilings

SUBPART J: REDUCED OXYGEN PACKAGING

Section
 760.2000 General
 760.2010 Acceptable Products
 760.2020 Employee Training
 760.2030 Refrigeration Requirements
 760.2031 Labeling - Refrigeration Statements
 760.2032 Labeling - "Use By" Dates
 760.2040 Safety Barriers
 760.2041 Fish and Fishery Products
 760.2042 Safety Barrier Verification
 760.2050 Hazard Analysis Critical Control Point (HACCP) Program
 760.2060 Precautions Against Contamination
 760.2070 Disposition of Expired Product
 760.2080 Dedicated Area/Restricted Access

SUBPART K: MEAT/POULTRY PROCESSING AND LABELING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
 760.3000 Exceptions
 760.3100 Meat and Poultry Labeling
 760.3200 Smoked Meat, Poultry and Other Food Products

APPENDIX A Retail Food Sanitary Inspection Report

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and the Sanitary Food Preparation Act [410 ILCS 630], and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21].
 Section 11.1 of the Sanitary Food Preparation Act [410 ILCS 650.11.1] and the Food Handling Regulation Enforcement Act [410 ILCS 625].

SOURCE: Adopted September 16, 1968; old rules repealed and new rules adopted and codified at 7 Ill. Reg. 1382, effective January 25, 1983; amended at 7 Ill. Reg. 8532, effective July 8, 1983; amended at 11 Ill. Reg. 2440, effective February 1, 1987; amended at 11 Ill. Reg. 18743, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14391, effective September 2, 1989, for a maximum of 150 days; amended at 12 Ill. Reg. 17935, effective December 1, 1989; amended at 13 Ill. Reg. 1830, effective January 30, 1989; amended at 13 Ill. Reg. 18621, effective December 1, 1989; amended at 16 Ill. Reg. 16050, effective October 1, 1992; amended at 20 Ill. Reg. ~~2201~~, effective JAN 20 1996.

SUBPART A: GENERAL PROVISIONS

Section 760.20 Definitions

For the purpose of this Part:

"Acceptable product list" means a list of foods, acceptable to the regulatory authority, which because of their characteristics will present a barrier to the growth of Clostridium botulinum.

"Barrier" means a safety factor of a physical, biological, or chemical nature which inhibits or minimizes the growth of microorganisms including those which may be infectious or toxigenic.

"Beef pattie mix" (or "Beef Patties" if in pattie form) means chopped beef with or without the addition of beef fat as such and/or seasonings.

"Bulk food" means processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

"Cold smoke process" is a smoking process used to apply smoke or a smoke flavor at or below ambient temperature to food products not

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

sufficiently darkened in the original smoking operation.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding or mincing. It includes fish or meat products that are reduced in size and restructured or reformulated, such as gelille fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

"Controlled atmosphere packaging (CAP)" means an active packaging system which continuously maintains the desired atmosphere within the package throughout the shelf-life of the product. CAP uses an agent to bind or "scavenge" oxygen permeating the package, or a sachet to emit a gas.

"Cook-chill processing" means a process in which a plastic bag is filled with hot cooked food and the air is expelled while the bag is being sealed before being blast or tumble chilled.

"Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Critical control point" means any point or procedure in a specific food processing or packaging operation where loss of control may result in an unacceptable health risk.

"Dedicated equipment or personnel" means equipment or personnel reserved solely for the use of one food processing operation to prevent cross-contamination.

"Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue can be effectively removed by normal cleaning methods.

"Employee" means the permit holder, individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food store.

"Equipment" means items other than utensils used in the storage, preparation, display, and transportation of food, such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a retail food store. This item does not include fork lift trucks or dollies.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food service establishment" means any place where food is prepared and intended for, though not limited to, individual portions for service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include lodging facilities serving only a continental breakfast, (a continental breakfast is one limited to only coffee, tea, and/or juice and commercially prepared sweet baked goods) private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

"Ground beef" means chopped or ground beef with or without seasoning and without the addition of beef fat and shall not contain more than 30 percent fat.

"Hamburger" means chopped beef with or without the addition of beef fat and/or seasoning and shall not contain more than 30 percent fat.

"Hazard Analysis Critical Control Point (HACCP) Program" means a comprehensive food safety control plan which includes a step-by-step description of the food processing, packaging and storage procedures including identification of critical control points (CCPs); the food contact surface cleaning and sanitizing procedures; lot identification procedures and training procedures.

"Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

"Injecter" means manipulating a meat so that infectious or toxic microorganisms may be introduced from its surface to its interior through tenderizing with despersation or injecting the meat, such as with juices, which may be referred to as injecting, pinning or stitch pumping.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"law" includes applicable Federal, State, and local statutes, ordinances, and regulations.

"Lot" means a unique run of processed or packaged product with a specifically designated date and processing operation.

"Modified Atmosphere Packaging (MAP)" means a one-time gas-flushing and sealing process. The gas atmosphere within the package after sealing is then allowed to passively change due to factors of container permeability and food product respiration.

"Official Methods of Analysis" means the Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, or Standard Methods for Examination of Dairy Products, 15th Edition, as incorporated in Section 760.15 (d) 3 (e).

"packaged" means bottled, canned, cartoned, bagged, or securely wrapped.

"Partially defatted beef fatty tissue" means a beef by-product derived from the low temperature rendering (not exceeding 120 degrees Fahrenheit) of fresh beef tissue. Such product shall have a pinkish color and a fresh odor and appearance.

"person" includes any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a retail food store who is the supervisor of the retail food store at the time of inspection.

"Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage.

"Preservative" means any curing agent or curing accelerator (specific chemical agent which extends the shelf life of the product which cures, accelerates color fixing or preserves color in meat or poultry products including but not limited to sodium or potassium nitrate, sodium or potassium nitrite, ascorbic acid, erythorbic acid, glucono delta lactone, sodium ascorbate, sodium erythorbate, citric acid, sodium citrate or sodium benzoate.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Processing" means to manufacture, compound, intermix or prepare food products for sale or for customer service.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

Unpackaged, potentially hazardous food that is cooked to the temperature and time required for serving food under Section 760.190;

Raw, washed, cut fruit and vegetables;

Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excludes whole raw fruits and vegetables offered for retail sale; and

Other food presented for consumption for which further washing or cooking is not required and from which birds, pests, husks, or shells are removed.

"Regulatory authority" means the State and/or local enforcement authority or authorities having responsibility for enforcing this Part.

"Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines.

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level (when those disease organisms which may be present are destroyed so as to prevent transfer) on cleaned food-contact surfaces of utensils and equipment,

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS
(Source: amended at 20 Ill. Reg. 2201, effective
JAN 20 1996)

SUPPORT B: FOOD
Section 760.110 Special Requirements for Food Supplies

- a) Fluid milk and fluid milk products used or offered for sale shall comply with the Grade 'A' standards as established by law. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products.
- b) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be received and/or repacked in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the state certification number issued according to law. Shucked shellfish shall be kept in the container in which they were received until used or sold. Each bag affixed to a container of certified shell stock along with its accompanying invoice and each shucked shellfish invoice shall be retained for a period of 90 days and be made available for inspection by the health department.
- c) Each original container of unshucked shellfish (oysters, clams, or mussels) shall be identified by an attached tag, to be retained for a period of 90 days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish, and the certification number issued by the State or foreign shellfish control agency, where applicable. Each shucked shellfish invoice shall be retained for a period of 90 days and be made available for inspection by the health department.
- d) Only clean shell Grade A eggs meeting applicable grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.
- e) Only ice which has been manufactured from potable water and hardened in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.
- f) All meat of mammalian and avian origin shall be inspected and approved as human food by the Illinois Department of Agriculture or the United States Department of Agriculture and bear the stamp or mark as required by the aforementioned departments.
- g) Each retail food establishment location shall obtain written permission from the appropriate regulatory authority responsible for retail food protection in that jurisdiction before packaging foods in a reduced oxygen atmosphere. Reduced oxygen packaging shall consist of cook-chill processing, vacuum-packaging, modified atmosphere packaging (MAP) or controlled atmosphere packaging (CAP). The request from the retail establishment and approval from the regulator shall be product specific and shall be issued according to the requirements listed in Support K of this Part.
- h) Every food pre-packaged in advance of retail sale must bear the

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Showering" means a potable water spray with or without liquid smoke in the smoke house which, depending on when the water spray is applied, maintains humidity, flavors, decreases cooking time, promotes rapid cooling or reduces casing shrinkage.

"Single-service articles" means items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

"Smoke generator" means a piece of equipment attached or integral to a smoke house which provides smoke to the smoke house, usually by slowly auguring sawdust onto a heating element with the resulting smoke being drawn into the smokehouse.

"Smoke house" means a piece of equipment or room sized enclosure used to conduct the smoking process with a smoke source, adequate ventilation, heat and humidity source if necessary, approved plumbing and waste lines if necessary, support structures for the food products to be smoked and a method to determine internal product temperature.

"Smoking" means the process of subjecting meat cuts and other foods to an environment of heat and smoke generated from hardwood, hardwood sawdust, corn cobs or natural liquid smoke that has been transformed into a gaseous state by application of direct heat.

"Temporary Retail Food Store" means a retail store that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration. The term does not include establishments that handle only fresh fruits and fresh vegetables, or temporary food service establishments.

"Transportation" (transported) means movement of food within the retail food store or delivery of food from that retail food store to another place while under the control of the person in charge.

"Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispersing of food.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

11	0	0	0
12	0	0	0
13	0	0	0
14	0	0	0
15	0	0	0
16	0	0	0
17	0	0	0
18	0	0	0
19	0	0	0
20	0	0	0
21	0	0	0
22	0	0	0
23	0	0	0
24	0	0	0
25	0	0	0
26	0	0	0
27	0	0	0
28	0	0	0
29	0	0	0
30	0	0	0
31	0	0	0
32	0	0	0
33	0	0	0
34	0	0	0
35	0	0	0
36	0	0	0
37	0	0	0
38	0	0	0
39	0	0	0
40	0	0	0
41	0	0	0
42	0	0	0
43	0	0	0
44	0	0	0
45	0	0	0
46	0	0	0
47	0	0	0
48	0	0	0
49	0	0	0
50	0	0	0
51	0	0	0
52	0	0	0
53	0	0	0
54	0	0	0
55	0	0	0
56	0	0	0
57	0	0	0
58	0	0	0
59	0	0	0
60	0	0	0
61	0	0	0
62	0	0	0
63	0	0	0
64	0	0	0
65	0	0	0
66	0	0	0
67	0	0	0
68	0	0	0
69	0	0	0
70	0	0	0
71	0	0	0
72	0	0	0
73	0	0	0
74	0	0	0
75	0	0	0
76	0	0	0
77	0	0	0
78	0	0	0
79	0	0	0
80	0	0	0
81	0	0	0
82	0	0	0
83	0	0	0
84	0	0	0
85	0	0	0
86	0	0	0
87	0	0	0
88	0	0	0
89	0	0	0
90	0	0	0
91	0	0	0
92	0	0	0
93	0	0	0
94	0	0	0
95	0	0	0
96	0	0	0
97	0	0	0
98	0	0	0
99	0	0	0
100	0	0	0

SEVENTH EDITION

for only information regarding its label (Bak Foods recalls the same information to be correct on pizzas, but faces questions about excluding net contents).

- 1) The computer and the user are separated by a communication channel. The computer and the user are separated by a communication channel.
- 2) The computer and the user are separated by a communication channel. The computer and the user are separated by a communication channel.
- 3) The computer and the user are separated by a communication channel. The computer and the user are separated by a communication channel.
- 4) The computer and the user are separated by a communication channel. The computer and the user are separated by a communication channel.
- 5) The computer and the user are separated by a communication channel. The computer and the user are separated by a communication channel.

- i) Foods packaged or repackaged by charitable or non-for-profit organizations for distribution to people in need shall bear the common and/or usual name of the product and the name of the distributing organization. A list of ingredients for any multi-ingredient product shall be posted or made available upon request. Prepared, ready-to-eat foods obtained by food service establishments to charitable or non-for-profit organizations are exempt from the ingredient listing requirements of this subsection.
- j) The processing and labeling of ground meats/poultry and other meat/poultry products shall be in compliance with Subpart K of this Part.
- k) Pasteurized soft serve mix and frozen desserts shall comply with the Standards listed below.

Product	Bacteria: standard plate count not more than	Coliform determination not more than	Storage temperature
Mix	50,000/ml*	10/ml	+45 to +50° F.
Frozen	50,000/ml*	10/ml	Frozen
Dessert			
Plain			
Frozen	50,000/ml*	20/ml	Frozen
Dessert			
Flavored			

The products shall be tested in accordance with tests and examinations contained in the 15th edition of Official Methods of Analysis of the Association of Official Analytical Chemists or in the 15th edition of Standard Methods for the Examination of Dairy Products.

*Except frozen yogurt with live culture added.

- 11) Consumer Advisory: Effective July 1, 1996, if a retail food store offers any raw or under-cooked animal food, such as meat, poultry, eggs or seafood (including shellfish), in ready-to-eat form or offers any ready-to-eat food containing animal food as a raw ingredient, the retail food store must advise consumers of the presence of such raw or under-cooked animal food and advise consumers of the

increased health risk of eating such foods in raw or under-cooked form, especially for certain populations.

- 1) If steaks or meat items containing 50% or under cooked animal food (e.g., steaks, barge or Caesar salad) containing raw unseasoned eggs are routinely offered, such consumer advisory shall state: "Identify the food item that contains the risk of under-cooked animal food."
- 2) If a ready-to-eat store does not routinely offer food items containing raw or under-cooked animal food, but may serve under-cooked meat, eggs or seafood upon the request of a consumer, identify a manager. Consumer advisory shall be provided. The advisory does not need to identify the food item that a consumer may request in an under-cooked condition.
- 3) The restaurant's advisory may be in the form of a "Good to Go" or "Bad to Go" advisory label, a label on the table, placard or other written communication that advises the patrons. The advisory shall include the following:
"The Illinois Department of Public Health advises that eating raw or under-cooked meat, poultry, eggs, or seafood poses a health risk to everyone, but especially the elderly, young children under age 4, pregnant women, and other highly susceptible individuals with compromised immune systems. Thorough cooking of such animal foods reduces the risk of illness."
- 4) If space permits, any consumer advisory may include additional language such as the following:
"For further information, contact your physician or public health department."

(Source: Amended at 20 Ill. Reg. 2201¹, effective
JAN 20 1995)

Section 760.120 General - Food Protection

- a) At all times, including while being stored, prepared, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, insecticides, rodents, rodenticides, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining, and overheat leakage or condensation, or other agents of public health significance. Prior to July 1, 1996, the temperature of potentially hazardous foods shall be 45°F or below or 140°F or above, at all times, except as otherwise provided in this Part. Effective July 1, 1996, the temperature of potentially hazardous foods shall be 45°F or below or 140°F or above, at all times, except as otherwise provided in this Part. Refrigeration units unable to maintain a product temperature of 40°F may continue to be used until January 1, 2006, provided the product

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

temperature is maintained at 45° or less at all times and all potentially pathogenic foods are prepared on-site or obtained from a supplier of commercially processed food products are dated and refrigerated in a cooler, can, or other sealed container or covered, sealed container. In the event the food product is not used or consumed as prepared, the product shall be discarded.

- b) Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled or that are in damaged containers that may affect the product and those food items that have been returned to, or are being detained by, the retail food store because of spoilage, container damage, other public health considerations, shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the regulatory authority.

(Source: Amended at 20 Ill. Reg. 2201, effective JAN 20 1996)

Section 760.150 Refrigerated/Frozen Storage

- a) Refrigeration units or effectively insulated units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage.
- b) Each mechanically refrigerated unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to 1°F. The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to 1°F may be used in lieu of indicating thermometers.
- c) Prior to July 1, 1996, potentially Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Effective July 1, 1996, potentially hazardous foods shall be rapidly cooled to an internal temperature of 41°F, unless the food is cooled to an internal temperature of 45°F, dated, and refrigerated at 45°F for no more than three days as specified in Section 760.120. Potentially hazardous foods of large volume prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Prior to July 1, 1996, potentially Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F or below unless maintained in accordance with the hot storage requirements of this Part. Effective July 1, 1996, potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 41°F or below unless maintained in accordance with the hot storage requirements of this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Effective July 1, 1996, cooked potentially hazardous food shall be cooled:
A) from 140°F (60°C) to 70°F (21°C) within 2 hours; and
B) from 70°F (21°C) to 41°F (4.5°C), or below, within 4 hours or within a total of 6 hours.
- 2) Effective July 1, 1996, potentially hazardous food shall be cooled to 41°F (4.5°C) or below within 4 hours if created from ingredients at ambient temperature, 50°C as recommended for fish and canned tuna.
- 3) Effective July 1, 1996, fluid milk and -1X products, shell eggs, and molluscan shellstock received in compliance with laws regulating the respective food during subsequent storage shall be cooled. Shell eggs shall be cooled to 41°F (4.5°C) or below within 4 hours.
- d) Potentially hazardous frozen foods shall be kept frozen and should be stored at an air temperature of 0°F or below except in shortest cycles and brief periods of loading or unloading.
- e) Ice used as a cooling medium for food storage shall not be used or sold for human consumption.
- f) Upon delivery, intact shell eggs shall be stored at a temperature of 45°F or less, prior to July 1, 1996. Effective July 1, 1996, upon delivery, intact shell eggs shall be stored at a temperature of 45°F or less. The eggs are dated and refrigerated at 50°F or colder than three days as specified in Section 761.12.

(Source: Amended at 20
JAN 20 1995)

Section 760.170 General - Food preparation

- [illegible]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

1) Those routing, procedure/work stations that necessitate direct hand contact with ready-to-eat food shall be identified and listed. This list shall be made available, upon request, to the Department of any local health department responsible for licensing permitting the establishment.

2) Available alternatives to unprotected direct hand contact, e.g., use of suitable utensils, FDA-approved sanitizing and rinses, etc., shall be considered. If an alternative (e.g., use of a suitable utensil) can be implemented, this procedure work station shall be removed from the list of routine direct hand contact points.

3) Better focused education and training shall be provided to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food. The content and duration of this focused education and training shall be determined by the food service operator.

d) Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which are clean and have been sanitized. Salads and other ready-to-eat foods should be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.

e) Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products should be prepared from chilled products.

(Source: Amended at 20 Ill. Reg. 2201, effective

JAN 20 1996

Section 760.190 Cooking Potentially Hazardous Foods

Potentially hazardous foods being processed within the retail food store by cooking shall be cooked to heat all parts of the food to a temperature of at least 160°F except that:

a) Poultry, poultry stuffing, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165°F with no interruption of the cooking process.

b) Pork and pork products shall be cooked to heat all parts of the food to at least 150°F or, if cooked in a microwave oven, to at least 170°F.

c) When beef roasts under 10 pounds in weight are cooked in a still-dry heat oven, they shall be preheated to and held at an air temperature of at least 325°F throughout the process. If cooked in a convection oven, they shall be preheated to and held at an air temperature of at least 325°F throughout the process.

d) When beef roasts of 10 pounds or over in weight are cooked in a dry

heat oven, the oven shall be preheated to and held at an air temperature of at least 325°F throughout the process. Poultry, poultry stuffing, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165°F with no interruption of the cooking process.

c) When beef roasts under 10 pounds in weight are cooked in a still-dry heat oven, they shall be preheated to and held at an air temperature of at least 325°F throughout the process. If cooked in a convection oven, they shall be preheated to and held at an air temperature of at least 325°F throughout the process.

d) When beef roasts of 10 pounds or over in weight are cooked in a dry

Minimum Holding Times for Beef Roasts at Various Searing Temperatures

Minimum internal holding temperature	Minimum internal holding time	Minimum internal holding time	Minimum internal holding time
°F	Minutes	°F	Minutes
199	121	198	19
191	97	199	15
192	77	149	12
193	62	141	10
194	47	142	8
195	37	143	6
196	32	144	5
197	24		

f) Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145°F.

a) Raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to the following temperatures and times, except as specified in subsections (b) and (c) of this Section:

- 1) 145°F (63°C) or above for 15 seconds for:
 - A) Shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and
 - B) Fish and meat that are not specified in subsection (a)(2), (3) or (4) of this Section.

2) For pork and game animals, comminuted fish and meats, injected meats, and eggs that are not prepared for immediate service, 155°F (68°C) for 15 seconds or the temperature specified in Section 760.195 that corresponds to the cooking time.

3) As specified in Section 760.197 for roasts of beef and corned beef:

4) 165°F (74°C) or above for 15 seconds for field-dressed wild game animals, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat, or poultry, and

5) Any alternative temperature and time that provides an equivalent heat lethality provided the alternative method is approved in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- j) In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or
- d) As part of the conventional cooking process.

(Source: Amended at 20 Ill. Reg. 2201, effective JAN 20 1996)

Section 760.240 Displaying Potentially Hazardous Foods

Prior to July 1, 1996, potentially hazardous foods shall be held at an internal temperature of 45°F or below or at an internal temperature of 140°F or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F. Effective July 1, 1996, potentially hazardous foods shall be held during display at an internal temperature of 41°F or below, unless the foods are dated and refrigerated at 45°F for no more than three days as specified in Section 760.120, or held during display at an internal temperature of 140°F or higher, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F.

(Source: Amended at 20 Ill. Reg. 2201, effective JAN 20 1996)

SUBPART J: REDUCED OXYGEN PACKAGING

Section 760.2030 Refrigeration Requirements

Prior to July 1, 1996, all air retail processed foods in reduced oxygen packages must be refrigerated at 45°F or below or kept frozen at 0°F or below. Effective July 1, 1996, all retail processed foods in reduced oxygen packages shall be refrigerated at 41°F or below, at all times, except as otherwise provided in this Part. Refrigeration units unable to maintain a product temperature of 41°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F or less at all times and all potentially hazardous foods prepared on-site or opened containers/packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively.

(Source: Amended at 20 Ill. Reg. 2201, effective JAN 20 1996)

Section 760.2040 Safety Barriers

Prior to July 1, 1996, refrigeration Refrigeration at 45°F degrees Fahrenheit is required as the primary safety barrier. Effective July 1, 1996, all retail

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

processed foods in reduced oxygen packages shall be refrigerated at 41°F or below, at all times, except as otherwise provided in Section 760.2030. Only refrigerated foods that possess one or more of the following secondary safety barriers can be packaged in a reduced oxygen atmosphere at retail:

- Foods with a water activity (a_w) below .93, or
- Foods with an acidity (pH) of less than 4.6, or
- Foods with high levels of non-pathogenic competing organisms that prohibit the growth of pathogenic bacteria, or
- Meat or poultry products processed under U.S.D.A. or Illinois Department of Agriculture supervision with a nitrite level of at least 120 PPM and a minimum brine concentration of 3.5%, or
- Frozen foods provided the product is maintained in a frozen state before, during and after packaging.

(Source: Amended at 20 Ill. Reg. 2201, effective JAN 20 1996)

SUBPART K: MEAT POULTRY PROCESSING AND LABELING

Section 760.3200 Smoked Meat, Poultry and Other Food Products

- Any smoking operation shall comply with all other applicable requirements of this Part.
- Approved materials for use with a smoke generator include hardwood, hardwood sawdust, corn cobs, and natural liquid smoke. Products approved by U.S.D.A., FDA or the Illinois Department of Agriculture meet these safety requirements.
- The internal temperature of any smoked product shall comply with the requirements of Section 760.190 (Cooking Potentially Hazardous Foods).

- Automatic recording thermometers with internal product temperature probes or a metal-stemmed thermometer shall be available and used whenever product is smoked.
- Product to be smoked shall be uniformly sized to ensure that each piece reaches the required end cooking temperature.
- When a cold smoking process is used for cosmetic purposes, that is, to add smoke color or flavor to a pre-cooked product, the cold smoke process must be of such duration that the product temperature(s) remains at or below 45°F degrees Fahrenheit prior to July 1, 1996, and at or below 41°F effective July 1, 1996.

- A Hazard Analysis Critical Control Point program shall be available in the processing area to describe the smoking process. It shall consist of written procedures describing the preparation, smoking, handling, packaging and holding of the smoked products. It shall include, at a minimum:
 - Defrosting procedures, if used;
 - Time/temperature requirements for cooking and smoking;
 - Cooling procedures;
 - Identification of the critical control points in the procedure

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- with a description of how these will be monitored and controlled;
- 5) Designation of a dedicated work area where raw product is handled and a separate work area for cooked or smoked product to prevent cross-contamination;

- 6) Description of the cleaning and sanitizing procedures, including frequency; and

- 7) Samples of labels with all ingredients contained in the product.

(Source: Amended at 20 Ill. Reg. **2201**, effective **JAN 20 1995**)

DEPARTMENT OF PUBLIC AID

NOTICE OF PERMISSORY AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121

- 3) Section Numbers: Adopted Action:

121.60 Amendment
121.61 Amendment
121.63 Amendment
121.64 Amendment

- 4) Reference to the Specific State or Federal Court Order, Federal Rule of Statute Which Requires this Permissive Rulemaking: This permissive rulemaking is required by the 27 1996 Agricultural Regulations Bill.

- 5) Statutory Authority: Sections 12-4.4 through 12-4.6 and 12-4.3 of the Illinois Public Aid Code (305 ICS 5-12-4.4 through 12-4.6 and 12-4.3).

- 6) Effective Date: January 17, 1995

- 7) Complete Description of the Subjects and Issues Involved: In accordance with federal regulations, these proposed amendments increase the maximum monthly coupon allotments, the gross and net income eligibility standards, the standard deduction, the shelter costs deduction and the shelter standard for homeless households. These deductions are used in the computation of net monthly income for food stamps. The net monthly income is used to determine the amount of the household's monthly coupon allotment.

- 8) Does this rulemaking contain an automatic repealer date? No

- 9) Date Filed in Agency's Principal Office: January 17, 1995

- 10) This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

- 11) Are there any amendments pending on this Part? No

- 12) Statement of Statutory Policy Objectives: These permissive amendments do not affect units of local government.

- 13) Information and questions regarding these adopted amendments shall be directed to:

Judy Umuna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor

DEPARTMENT OF PUBLIC AID

DEPARTMENT OF PUBLIC AID

NOTICE OF PERMISSORY AMENDMENTS

NOTICE OF PERMISSORY AMENDMENTS

Springfield, Illinois 62762
Telephone: (217) 524-3215

TITLE: 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER C: ASSISTANCE PROGRAMS

The full text of the Permissive Amendments begins on the next page:

PAGE 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section
121.1
121.2
121.3
121.4
121.5
121.6
121.7
121.10

Application for Assistance
Time Limitations on the Disposition of an Application
Approval of an Application and Initial Authorization of Assistance
Denial of an Application
Client Cooperation
Emergency Assistance
Expedited Services
Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
121.19
121.20
121.21
121.22
121.23
121.24
121.25
121.26
121.27
121.28
121.29

Ending a Voluntary Quit Disqualification
Citizenship
Residence
Social Security Numbers
Work Registration/Participation Requirements (Repealed)
Individuals Exempt From Work Registration Requirements (Repealed)
Failure to Comply (Repealed)
Period of Disqualification (Repealed)
Voluntary Job Quit
Good Cause for Voluntary Job Quit
Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
121.30
121.31
121.32
121.33
121.34
121.40
121.41
121.50
121.51
121.52

Unearned Income
Exempt Unearned Income
Education Benefits
Unearned Income In-Kind
Lump Sum Payments and Income Tax Refunds
Earned Income
Budgeting Earned Income
Exempt Earned Income
Income from Work/Study/Training Programs
Earned Income from Roomer and Boarder

DEPARTMENT OF PUBLIC AID

NOTICE OF PERMISSORY AMENDMENTS

121.53
121.54
121.55
121.56
121.57
121.58
121.59

Income From Rental Property
Banned Income In-Kind
Sponsors of Aliens
Assets
Exempt Assets
Asset Dispositions

SUBPART D: ELIGIBILITY STANDARDS

Section
121.60
121.61
121.62
121.63
121.64

Net Monthly Income Eligibility Standards
Gross Monthly Income Eligibility Standards
Income Which Must Be Annualized
Deductions From Monthly Income
Coupon Allotment

SUBPART E: HOUSEHOLD CONCEPT

Section
121.70
121.71
121.72
121.73
121.74
121.75
121.76

Composition of the Assistance Unit
Living Arrangement
Nonhousehold Members
Ineligible Household Members
Strikers
Students
Households Receiving AFDC, SSI, Interim Assistance and/or GA -
Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section
121.80
121.81
121.82
121.83
121.84
121.85
121.90
121.91
121.92
121.93
121.94
121.95
121.96
121.97
121.98
121.170
121.130

Fraud Disqualification (Renumbered)
Initiation of Administrative Fraud Hearing (Repealed)
Definition of Fraud (Renumbered)
Notification To Applicant Households (Renumbered)
Disqualification Upon Finding of Fraud (Renumbered)
Court Imposed Disqualification (Renumbered)
Monthly Reporting and Retrospective Budgeting
Monthly Reporting
Retrospective Budgeting
Direct Mail Issuance of Food Stamp Coupons
Replacement of Food Stamp Coupons
Restoration of Lost Benefits
Uses For Food Coupons
Supplemental Payments
Food Stamp Simplified Application Demonstration Project (Repeated)
Recertification of Eligibility
Residents of Shelters for Battered Women and their Children

DEPARTMENT OF PUBLIC AID

NOTICE OF PERMISSORY AMENDMENTS

121.135
121.140

Incorporation By Reference
Small Group Living Arrangement Facilities and Drug/Alienolic
Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
121.150
121.151
121.152
121.153
121.154

Definition of Intentional Violations of the Program
Penalties for Intentional Violations of the Program
Notification To Applicant Households
Disqualification Upon Finding of Intentional Violation of the Program
Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
121.160
121.162
121.164
121.166
121.170
121.172
121.174
121.176
121.178
121.180
121.182
121.184
121.186
121.188
121.190
121.200
121.201
121.202
121.203
121.204
121.205
121.206
121.207
121.208

Persons Required to Participate
Participation and Cooperation Requirements
Orientation
Assessment and Employability Plan
Job Search Component
Basic Education Component
Job Readiness Component
Work Experience Component
Job Training Component
Grant Diversion Component
Earnfare Component
Sanctions
Good Cause for Failure to Cooperate
Supportive Services
Conciliation and Fair Hearings
Types of Claims (Recodified)
Establishing a Claim for Intentional Violation of the Program
(Recodified)
Establishing a Claim for Unintentional Household Errors and
Administrative Errors (Recodified)
Collecting Claim Against Households (Recodified)
Failure to Respond to Initial Demand Letter (Recodified)
Methods of Repayment of Food Stamp Claims (Recodified)
Determination of Monthly Allotment Reductions (Recodified)
Failure to Make Payment in Accordance with Repayment Schedule
(Recodified)
Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by
Section 12-13 of the Illinois Public Aid Code [95 ILCS 5/12-4.4 through 12-4.6
and 12-13].

DEPARTMENT OF PUBLIC AID

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

NOTICE OF PEREMPTORY AMENDMENTS

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 13, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 45, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 3 Ill. Reg. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 253, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980; for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 737, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 1586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1633, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 3159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19693, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8663, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8938, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill.

Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 reclassified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11331, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11835, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15489, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18213, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 377, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988; for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3893, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16324, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3127, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994;

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

amended at 19 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 2229, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.60 Net Monthly Income Eligibility Standards

- a) Eligible households whose net monthly income does not exceed the maximum monthly income standards shall be assigned a coupon allotment based on the net monthly food stamp income.
- b) The maximum net monthly income standards are:

Household Size	Amount
1.....	\$ 623 581
2.....	956 786
3.....	1,050 991
4.....	1,261 7196
5.....	1,476 77491
6.....	1,690 77606
7.....	1,901 77811
8.....	2,116 77816
Each additional member.....	+211 295

Derived from office of Management and Budget non-farm, income poverty guidelines.

(Source: Peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996)

Section 121.61 Gross Monthly Income Eligibility Standards

- a) Gross Monthly Income Eligibility Standards

1) The gross income standards of eligibility shall be 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget (see 7 CFR 273.9(a)(1)(1990)). However, categorically eligible households and households containing a member who is elderly, blind or disabled will be exempt from this gross income check (see also 7 CFR 273.9(c) (1990)). To qualify for increased benefits a household must contain a member who meets one of the following requirements:

- A) A member is 60 years of age or older. An individual is considered age 60 in the fiscal month he or she becomes 60.
- B) A member receives Supplemental Security Income (SSI)

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

benefits under title XVI of the Social Security Act, (this includes the household where the member is receiving SSI income pending a final decision from the Social Security Administration. This SSI income is being provided on a temporary or emergency basis). 7-7-97

- C) A member receives Social Security disability or blindness benefits under title II (SSDI) of the Social Security Act.
- D) A member receives State Supplemental Payment (SSP) due to blindness or disability. This does not include cases in PS status pending a determination of blindness or disability.
- E) A veteran with a service connected disability rated or paid as totally disabled by the Veterans Administration (VA).
- F) A veteran considered by the VA to be in need of regular aid and attendance or permanently housebound.
- G) A veteran's surviving spouse who is considered in need of aid and attendance or considered permanently housebound by the Veterans Administration or a veteran's surviving child who is considered permanently incapable of self-support by the Veterans Administration.
- H) A veteran's surviving spouse or child entitled to compensation for a service connected death or pension benefits for a non-service connected death from the Veterans Administration if the spouse or child also has a disability considered permanent under Social Security requirements.
- I) A member receives federal, state, or local government disability pension and is considered permanently disabled under Social Security requirements.
- J) A member receives Railroad Retirement disability benefits.
- K) A member receives an annuity payment from Railroad Retirement and is eligible for Medicare.
- L) A member receives disability-related medical assistance benefits (Categories 92 and 93) under Title XIX (Medicaid) of the Social Security Act.

- 2) For those veterans, surviving spouses, or children mentioned in subsections (a)(1)(F) and (G) of this section above, proof of receipt of VA disability benefits is sufficient verification of disability. For those veterans mentioned in subsection (a)(1)(E) of this section above, a verified statement in writing from the VA that the individual is totally disabled must be provided. To verify disability for those individuals mentioned in subsection (a)(1)(H) of this section above, the individual must provide a statement from the Social Security Administration or from a physician of the Medical Practice Act of 1987 [225 ILCS 60] (Rev. Stat. 1991-III, par. 4-60.1 et seq.), or a licensed or certified psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15] (Rev. Stat. 1991-III, par. 5-501 et seq.) that the individual suffers from one of the disabilities listed in the preamble to Section 221(i) of the Social Security

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

Act (42 U.S.C. 421(i)) or if the disability is obvious, by observation of the caseworker (for example erg, permanent loss of use of both hands).

b) Household Size	Gross Income
One Person	\$ 810 756
Two Persons	1,087 4822
Three Persons	1,364 4299
Four Persons	1,641 4555
Five Persons	1,919 4822
Six Persons	2,196 4989
Seven Persons	2,474 4855
Eight Persons	2,751 4622
Each Additional Member	+ 278 267

(Source: Peremptory amendments at 20 Ill. Reg. **22 29**, effective January 17, 1996)

Section 121.63 Deductions From Monthly Income

- The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- Standard Deduction. The standard deduction is \$124.00 \$134.00 per household per month.
- Dependent Care Deduction.
 - The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria (contained in 89 Ill. Adm. Code 112.70 through 112.73) or to attend training or pursue education which is preparatory for employment.
 - The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$160.00 per month for each dependent household member.
- Shelter Costs Deduction.
 - The shelter deduction is the amount of shelter costs that exceed 50% of the household's total income after the allowable deductions in subsections (b), (c) and (d) of this Section have been made. The shelter deduction shall not exceed \$247.00 \$231.00.
 - If the household contains a member who is elderly or disabled as defined at 7 CFR 271.2 (1990) and Section 121.61, there is no limit on the amount of excess shelter deduction.
 - Households in which all members are homeless but that are not

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

receiving free shelter throughout the month are entitled to a \$143.00 \$177.00 per month homeless shelter costs deduction. Homeless households with shelter costs that exceed the homeless shelter costs deduction are allowed to claim the higher shelter costs if these costs are verified. Homeless households which receive free housing and utilities throughout the month are not entitled to the homeless shelter costs deduction.

- Shelter costs include only the following:
 - Continuing charges for the shelter occupied by the household (rent, mortgage, and other charges leading to the ownership of the shelter, including interest on such charges).
 - Property taxes, State and local assessments and insurance on the structure itself.
 - Utility costs as described in subsection (f) of this Section **2229**.
- Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if the household intends to return to the home; the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and the home is not leased or rented during the absence of the household.
- Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.

f) Utility Costs

- Utility costs include:
 - the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection fees;
 - basic service fee for one telephone (including tax on the basic fee) of \$27.00; and
 - fees charged by the utility provider for initial installation.
- Utility deposits are not considered to be utility costs.
- Those households which are billed for heating or air conditioning, or both, separately from their rent or mortgage may claim the standard utility allowance of \$209.00. Households living in rental housing who are billed on a regular basis by a landlord for costs for heating, or air conditioning, or both may use the standard utility allowance if utility usage is determined through a meter or otherwise is verifiable or if the charge for heating, or air conditioning, or both is separate and identifiable. If the standard utility allowance is used, then no other utility costs may be claimed. If actual utility costs exceed the standard utility allowance, then actual, verified costs may be claimed, except that if a separately-billed phone

DEPARTMENT OF PUBLIC AID

DEPARTMENT OF PUBLIC AID

NOTICE OF PEREMPTORY AMENDMENTS

NOTICE OF PEREMPTORY AMENDMENTS

expense is claimed only the basic telephone allowance of \$27.00 per month is allowed. The client that maintains the same residence may not switch between the standard utility allowance and actual utility costs for a period of 12 months from the time of initial certification and no more frequently than once every 12 months thereafter.

4) However, during the heating or cooling season, a household that is billed less often than monthly for its costs for heating, or air conditioning, or both, but is otherwise eligible to use the standard utility allowance, may continue to use the standard utility allowance between billing months.

5) Households in public housing or privately owned rental units which receive a bill for over-usage are not entitled to use the standard utility allowance. When households (as defined at 7 CFR 273.1(a) (1990)) live together, the standard utility allowance shall be divided equally among the households which contribute toward the utility costs whether or not each household participates in the program.

6) Households whose expense for heat, or air conditioning, or both is covered by indirect energy assistance payments under the Illinois Home Energy Assistance Program (47 Ill. Adm. Code 100) shall be entitled to the standard utility allowance (7 CFR 273.9 and 273.10(d)(6) (1990)). The provisions of subsection (f)(3) of this Section above are applicable to households whose expenses for heating, or air conditioning, or both are covered by indirect energy assistance payments.

7) Those households which are not billed separately for either heat or air conditioning are not entitled to claim the standard utility allowance but may claim the actual utility amounts for which they are billed separately, subject to the \$27.00 per month limitation for telephone expense.

9) Excess Medical Deductions. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (1990) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted if the expenses will not be reimbursed by insurance or a third party.

(Source: Peremptory amendment at 20 Ill. Reg. **2229**, effective January 17, 1996)

Section 121.64 Coupon Allotment

a) The monthly coupon allotment amount is determined by subtracting 30% of the adjusted net monthly income from the maximum monthly allotment

b) MAXIMUM MONTHLY ALLOTMENT:

Household size

1.....	\$119 412
2.....	\$218 266
3.....	\$313 395
4.....	\$397 375
5.....	\$472 445
6.....	\$566 595
7.....	\$626 594
8.....	\$726 667
Each Additional Adult Member	+ \$ 20 95

c) All one and two person households will receive a minimum monthly allotment of \$10.00

d) September Allotment Adjustment

The annual revisions of maximum gross and net income standards, standard deduction, maximum excess shelter deduction and coupon allotments are effective October 1st of each year. Because the September fiscal month of certain households includes days which fall in the October calendar month, the portion of the September fiscal allotment covering October 1st and later must be increased to reflect the new standards.

2229

(Source: Peremptory amendment at 20 Ill. Reg. **2229**, effective January 17, 1996)

DEPARTMENT OF CORRECTIONS

NOTICE OF PUBLIC HEARING ON PROPOSED RULE

1) Hearing of the Part: Secure Residential Youth Care Facilities

2) Code Citation: 20 Ill. Adm. Code 301

3) Register Citation to Notice of Proposed Rules:

20 Ill. Reg. 1371; January 26, 1996
(issue date)

4) Date, Time and Location of Public Hearing:

February 7, 1996
9:30 am Registration
10:00 - 11:30 am Hearing
Garvey Center, Margaret Room
1 Garvey Drive (at intersection of I-55 and Rte. 57)
Columbia, Illinois

February 15, 1996
9:30 am Registration
10:00 - 11:30 am Hearing
E. . . (Zee) Giorgi Center, Lower-level Auditorium
State of Illinois Building
201 South Wyman Street (downtown)
Rockford, Illinois

5) Other Pertinent Information:

Persons wishing to comment at the hearing should register by 9:30am. Persons are requested to limit their testimony to a maximum of 10 minutes. Written comments may also be submitted at the hearings. The hearings may be concluded sooner if all testimony has been received.

DEPARTMENT OF LABOR

NOTICE OF PUBLIC HEARINGS

The Illinois Department of Labor will hold two public fact finding hearings as part of its process of reviewing and updating its regulations under the One Day Rest in Seven Act.

1) Hearing of the Part: Six Day Week Law

2) Code Citation: 56 Ill. Adm. Code 220

3) Dates, Times, and Locations of Public Hearings:

February 29, 1996 (Thursday) -- Chicago -- 160 North LaSalle Street, Room N-532, at 10:00 A.M.

March 8, 1996 (Friday) -- Springfield -- Illinois State Library, 300 South 2nd Street, Room 403, at 10:00 A.M.

4) Other Pertinent Information: The One Day Rest in Seven Act is the state law that provides employees with the right to a daily meal break and to at least one day off from work during a calendar week. The statute allows employers to obtain waiver permits from the Department of Labor to employ persons on their day of rest. The Department of Labor, however, may grant an employer a permit authorizing the employment of persons for a seven day work week for more than eight weeks in any one year only after the Department has evaluated the business necessity and economic viability in granting such a permit.

The Department of Labor will convene the two public fact finding hearings to gather documentation and testimony about the actual business necessities, economic conditions, and social costs that the Department should consider when it grants permits to employers employing workers in excess of eight, seven day work weeks in a calendar year.

Any interested person may speak or present information on the waiver permit issues at the hearings. When written statements have been submitted it is not necessary to present them orally. Written materials should be mailed as far in advance as possible to the Illinois Department of Labor, 160 North LaSalle Street, Suite C-1300, Chicago, Illinois 60601.

5) Name and Address of Agency Contact Person: Questions regarding the public hearing shall be directed to:

Scott D. Miller, Chief Legal Counsel
Illinois Department of Labor
160 North LaSalle St., Suite C-1300
Chicago, Illinois 60601
(312) 793-1805

THE ILLINOIS LIQUOR CONTROL COMMISSION

REQUEST FOR EXPEDITED CORRECTION

1) Heading of the Part: The Illinois Liquor Control Commission

2) Code Citation: 11 Ill. Adm. Code 100

3) Section Numbers: 100.10

4) Date Proposal published in Illinois Register: August 25, 1995, 19 Ill. Reg. 12165

5) Date Adoption published in Illinois Register: January 2, 1996, 20 Ill. Reg. 934

6) Summary and Purpose of Expedited Correction: The reason for the correction is because of an inadvertent error in that alcoholic liquor sampling was meant only to be allowed at off-premise accounts as allowing at on-premise accounts will only circumvent the Happy Hours prohibition law and promote overconsumption of alcoholic liquor.

7) Information and questions regarding this request shall be directed to:

Name: Anne Treonis
Address: James R. Thompson Center
100 W. Randolph, Suite 5-300
Chicago, IL 60621
Telephone: (312)814-2206

THE ILLINOIS LIQUOR CONTROL COMMISSION

REQUEST FOR EXPEDITED CORRECTION

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE A: ALCOHOL

CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

PART 100

THE ILLINOIS LIQUOR CONTROL COMMISSION

Section	
100.5	Penalties
100.10	Definitions
100.20	Employment of Minors
100.30	Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation
100.40	Local Liquor Control Commissioner's Report (Repealed)
100.50	Advertising
100.60	Geographical Territories
100.70	Labels
100.80	Bonds (Repealed)
100.90	Credit to Retail Licensees
100.100	Internal Changes Within Corporations
100.110	Application Forms
100.120	Railroad Licenses
100.130	Books and Records
100.140	Miniatures (Repealed)
100.150	Salvaged Alcoholic Liquors
100.160	Sanitation
100.170	Taps
100.180	Procedure Before Commission on Citations
100.190	Procedure Before Commission on Request for Continuance of Any Hearing
100.200	Wagering Stamps (Repealed)
100.210	Inducements
100.220	Retail Licensee Clubs (Repealed)
100.230	Resumption of Business on Appeal
100.240	Transactions Involving Use of Checks and Their Equivalent
100.250	Transfer of Alcohol
100.260	Uniform Systems of Accounts
100.270	Multi-Use Facilities
100.280	Giving Away of Alcoholic Liquors
100.290	Refilling
100.300	Authorization to Remove Bottles
100.310	Food Service at Park Districts
100.320	Airplanes
100.330	Advertising
100.340	Petitions for the Adoption, Amendment or Repeal of a Rule
100.350	Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
100.360	Review on Record -- Certification of Ordinance
100.370	Procedures Before the Commission

THE ILLINOIS LIQUOR CONTROL COMMISSION

THE ILLINOIS LIQUOR CONTROL COMMISSION

REQUEST FOR EXPEDITED CORRECTION

REQUEST FOR EXPEDITED CORRECTION

- 100.380 Ex Parte Consultations
 100.390 Review on Record -- Certification of Ordinance (Renumbered)
 100.400 Procedures Before the Commission (Renumbered)
 100.410 Ex Parte Consultations (Renumbered)

AUTHORITY: Implementing and authorized by Section 3-12(2) of the Liquor Control Act (235 ILCS 5/3-12(2)).

SOURCE: Rules and regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1981; amended at 12 Ill. Reg. 19387, effective November 7, 1983; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 19 Ill. Reg. 834, effective January 2, 1996; expedited correction at 20 Ill. Reg. _____, effective January 2, 1996.

Section 100.10 Definitions

The following words or phrases are defined as follows:

- a) "Resident" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least one year and in the city, village or county in which the premises covered by the license are located for at least 90 days prior to making application for such license.
- b) "Corporation" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the Business Corporation Act of 1983 (805 ILCS 5), including a Limited Liability Company as defined in subsection (m) below.
- c) "Person" includes corporations, co-partnerships, associations, clubs, individuals, trustees, receivers, assignees, executors, administrators or other personal representatives of decedents.
- d) "Co-partnership" means an association of two or more persons to carry on as co-owners of a business for profit.
- e) "Partner" is any individual who is a member of a co-partnership.
- f) "Manager" or "Agent" means any individual employed by any licensed place of business, provided said individual possesses the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe.
- g) "Premises" or "Place of Business" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, streets, parking areas and grounds adjacent to any such place or location.
- h) "Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or

spirits, as defined in the Act, provided that the alcoholic content thereof does not exceed 24 per cent of alcohol by volume.
 i) "Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and, in the judgment of the State Commission, capable of being consumed as a beverage by a human being. The word "solid" means any substance which, by dilution or processing, becomes an alcoholic beverage.

j) "Manufacturer" shall include every person who, in the process of filling or refilling an original package with alcoholic liquors purchased by such person, changes the degree or quality of such alcoholic liquors by any manner or means whatsoever.

k) "Airplane" shall be deemed to include railroads and airplanes.

l) "Act" means the Illinois Liquor Control Act (235 ILCS 5).

m) "Limited Liability Company" means a legal business entity created and recognized under the Illinois Limited Liability Company Act (805 ILCS 180).

n) "Meal" means food that is prepared and served on the licensed premises and excludes the serving of snacks.

o) "Event" means a single theme.

p) "Sampling" means a product offered at an off-premise on-premise retail licensee for a sales promotion of no more than the following amounts: Distilled Spirits 1/2 oz., Wine 2 oz., and Beer 6 oz.; only one product per day may be sampled and the sales promotion may not be advertised.

q) "Test Marketing" means to test new products or products unfamiliar to the sampler through a marketing firm or the like.

(Source: Expedited correction at 20 Ill. Reg. _____, effective January 2, 1996)

DEPARTMENT OF HUMAN RIGHTS

JANUARY 1996 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Discrimination Involving Credit; 38 Ill. Adm. Code 900.

1) Rulemaking:

- A) Description: The Department intends to amend its existing regulation in order to clarify the regulations, to update statutory citations and to delete provisions duplicative of the Act.
- B) Statutory Authority: Implementing Article 4 of the Illinois Human Rights Act [775 ILCS 5/Art 4] and authorized by Section 7-101(A) of the Illinois Human Rights Act [5 ILCS 7-101(A)].

- C) Scheduled meetings/hearing date: None scheduled at this time.

- D) Date agency anticipates First Notice: June 15, 1996.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: All financial institutions will be subject to the rules, but the rules will not impose any additional obligations upon small businesses.

F) Agency contact person for information:

David T. Rothal
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
312-814-6242
T.D.D.: 312-263-1579

- G) Related rulemaking and other pertinent information: Not applicable.
- b) Part(s) (Heading of Code Citation): Procedures Applicable to All Agencies; 44 Ill. Adm. Code 750.

1) Rulemaking:

- A) Description: The Department intends to amend its existing regulations in order to clarify the regulations concerning the obligations of public contractors and eligible bidders, to update statutory citations and to add provisions regulating discrimination by public contractors and eligible bidders on the basis of handicap.

- B) Statutory Authority: Implementing Sections 2-105(A), 7-101(A) and 7-105(A) and authorized by Sections 2-105(A), 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 2-105(A), 7-101(A) and

DEPARTMENT OF HUMAN RIGHTS

JANUARY 1996 REGULATORY AGENDA

- 7-105(A)).

- C) Scheduled meetings/hearing date: None scheduled at this time.

- D) Date agency anticipates First Notice: June 15, 1996.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: All public contractors and eligible bidders must provide documentation to the Department in accordance with the Department's regulations.

F) Agency contact person for information:

David T. Rothal
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
312-814-6242
T.D.D.: 312-263-1579

- G) Related rulemakings and other pertinent information: Not applicable.

- c) Part(s) (Heading of Code Citation): Joint Rules of the Department of Human Rights and the Human Rights Commission: Handicap Discrimination in Employment; 56 Ill. Adm. Code 2500.

1) Rulemaking:

- A) Description: The Department intends to amend its existing regulations in order to clarify the regulations, to update statutory citations and to delete provisions duplicative of the Act.

- B) Statutory Authority: Implementing Section 2-102(A) and authorized by Sections 7-101(A) and 8-102(B) of the Illinois Human Rights Act [775 ILCS 2-102(A), 7-101(A) and 8-102(B)].

- C) Scheduled meetings/hearing date: None scheduled at this time.

- D) Date agency anticipates First Notice: June 15, 1996.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: All employers are subject to the Illinois Human Rights Act and its regulations on handicap.

- F) Agency Contact person for information:

David T. Rothal

DEPARTMENT OF HUMAN RIGHTS

JANUARY 1996 REGULATORY AGENDA

Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
312-814-6242
T.D.D.: 312-263-1579

G) Related rulemakings and other pertinent information: Not Applicable.

d) Part(s) (Heading and Code Citation): Procedural

1) Rulemaking:

A) Description: These amendments will provide a definition for "good cause", as provided in Section 7A-102(C)(4).

B) Statutory Authority: Implementing Sections 2-102(A) and authorized by Section 7-101(A) of the Illinois Human Rights Act (775 ILCS 2-102(A) and 7-101(A)).

C) Scheduled meetings/hearing date public participation: None scheduled at this time.

D) Date agency anticipates First Notice: February 15, 1996.

E) Affect on small businesses, small municipalities or not-for-profit corporations: All employers are subject to the Illinois Human Rights Act and its regulations.

F) Agency contact person for information:

David T. Rothal
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
312-814-6242
T.D.D.: 312-263-1579.

G) Related rulemakings and other pertinent information: Not Applicable.

DEPARTMENT OF NATURAL RESOURCES

JANUARY 1996 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Surface-Mined Land Conservation and Reclamation Act; 62 Ill. Adm. Code 300

1) Rulemaking:

A) Description: 62 Ill. Adm. Code Part 300 will be amended to implement HB 1486, which amended the Surface-Mined Land Conservation and Reclamation Act and the State Finance Act to regulate blasting at aggregate mines. The rules will implement the administrative enforcement scheme established by the statute designed to punish violations of blasting regulations.

B) Statutory Authority: Implementing and authorized by the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715).

C) Scheduled meeting/hearing date: Written comments may be submitted within 45 days after publication of the proposed amendments. A public hearing will be held if requested.

D) Date agency anticipates First Notice: On or before July 1, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: None.

F) Agency contact person for information:

Karen Jacobs, Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787
Telephone: (217)782-1809

G) Related rulemakings and other pertinent information: None.

b) Part (Heading and Code Citation): Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations 62 Ill. Adm. Code 1800

1) Rulemaking:

A) Description: Section 6.01 of the Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS 720/6.01, was recently amended to allow the Department to accept an applicant's bond, without separate surety, when the applicant has a history of solvency and designates a suitable agent for services of process (self-bonding). Part 1800 will be amended to implement this statutory self-bonding provision.

B) Statutory Authority: Implementing and authorized by the Surface

DEPARTMENT OF NATURAL RESOURCES

JANUARY 1996 REGULATORY AGENDA

Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

C) Scheduled meeting/hearing dates: Written comments may be submitted within 45 days after publication of the proposed amendments. A public hearing will be held if requested.

D) Date agency anticipates First Notice: On or before February 1, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: None.

F) Agency contact person for information:

Karen Jacobs, Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787
Telephone: (217)782-1809

G) Related rulemakings and other pertinent information: None.

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Lobbyist Registration and Reporting (2 Ill. Adm. Code 560)

(1) Rulemaking:

A) Description: Amends definitions, makes numerous changes to clarify registration and reporting requirements, such as removing forms from rules, providing new options for reporting large gatherings, and exempting lobbyists from reporting expenditure reimbursed by officials.

B) Statutory Authority: Implementing and authorized by the Lobbyist Registration Act (25 ILCS 170)

C) Scheduled meeting/hearing date: No hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not-for-profit corporations: Entities engaged in lobbying activities will be regulated by amended rules, and required to use updated forms. There should be no fiscal impact.

F) Agency contact person for information:

Debra Detmers
Director of Index
111 East Monroe
Springfield, Illinois 62756
217/782-0645

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Regulations Under Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)

(1) Rulemaking:

A) Description: Clarifies existing rules, adds exemptions and coordinates registration and other procedures through the SRD. Provides for abandonment of applications. Recognizes additional examinations for qualification of dealers of registered principals. Clarifies confidentiality policies.

B) Statutory Authority: 815 ILCS 5/11(A)

C) Scheduled meeting/hearing date: Unknown

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities, or not-for-profit corporations: The Department has determined that the proposed rulemaking should have no impact on small business, not-for-profit corporations or small municipalities.
- F) Agency contact person for information:
Michael A. Chinac, Assistant Director
Illinois Securities Department
520 South Second Street
Springfield, Illinois 62701
217 524-3240
- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Business Corporation Act (14 Ill. Adm. Code 150)

(1) Rulemaking:

- A) Description: The rules set forth that hearings shall be conducted pursuant to the Business Corporation Act; the procedures to occur in a hearing; the procedures to occur in a contested case hearing; if a court should find any suggestion invalid, the holding would not affect the other parts; pertains to information contained in the annual list and the fee charged for obtaining the list; information on obtaining the daily list and the fee charged; information on obtaining access to the department's database; the procedure to request reconsideration of a final determination; that the provisions of this subpart apply to all corporations subject to the provisions of the Act; the statutory provisions that apply to a proposed corporate name; the requirements that apply to a proposed corporate name; provides the basis for rejecting offensive word in the corporate title; the applicability of service of process on the Secretary of State; the locations on which to serve process on the Secretary of State; the definition of "business" and "property" for the purpose of computing franchise tax; that the consideration received upon the issuance of shares cannot be less than the aggregate par value of the shares issued; and the corporate structure available to certain types of corporations.

- B) Statutory Authority: Implementing and authorized by the Business Corporation Act of 1983 (805 ILCS 5)

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

- C) Scheduled meeting/hearing date: No meetings or hearings are known to be scheduled.
- D) Date agency anticipates First Notice: The date of notice is unknown.
- E) Affect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
Dale Reynolds
Department of Business Services
Office of the Secretary of State
328 Howlett Building
Springfield, Illinois 62756
217/782-9524

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): General Not For Profit Corporation (14 Ill. Adm. Code 160)

(1) Rulemaking:

- A) Description: The rules set forth the definitions of terms; the location of the office at which to file corporations; documents and business hours; the type of information available for purchase and the requirements to obtain it; the type of payment that is acceptable; and the fee and address to mail requests for abstracts
- B) Statutory Authority: Implementing and authorized by the General Not for Profit Corporation Act of 1986 (805 ILCS 105/101.01 et seq.)
- C) Scheduled meeting/hearing date: No meetings or hearings are known to be scheduled.
- D) Date agency anticipates First Notice: The date of notice is unknown.
- E) Affect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
Dale Reynolds
Department of Business Services
Office of the Secretary of State

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

328 Howlett Building
Springfield, Illinois 62756
217/782-9524

- G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Revised Uniform Limited Partnership Act (14 Ill. Adm. Code 170)

(1) Rulemaking:

- A) Description: The rules set forth the definition of the terms relating to RUPA; the location of the office at which to file RUPA documents; the type of payment that is acceptable; the procedure for service of process on limited partnerships; the type of information available for purchase and the requirements to obtain it; and the requirements for propounding interrogatories to whom they may be addressed and the time frame for completion. It further states that the information disclosed in the interrogatories is not open to the public.

B) Statutory Authority: Implementing and authorized by the Revised Uniform Limited Partnership Act (305 ILCS 210/100 et seq.)

C) Scheduled meeting/hearing date: No meetings or hearings are known to be scheduled.

D) Date agency anticipates First Notice: The date of notice is unknown.

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Dale Reynolds
Department of Business Services
Office of the Secretary of State
328 Howlett Building
Springfield, Illinois 62756
217/782-9524

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Limited Liability Company Act (14 Ill. Adm. Code 178)

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

(1) Rulemaking:

- A) Description: The rules set forth definitions of terms relating to the Limited Liability Company Act; the type of payment accepted for specific filings under the Act; the exceptions in checking name availability under the Act; the acceptable characters in a name under the Act; and the need for adoption of an assumed name by a foreign limited liability company under the Act.

B) Statutory Authority: Implementing and authorized by the Limited Liability Company Act (305 ILCS 180)

C) Scheduled meeting/hearing date: No meetings or hearings are known to be scheduled.

D) Date agency anticipates First Notice: The date of notice is unknown.

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Dale Reynolds
Department of Business Services
Office of the Secretary of State
328 Howlett Building
Springfield, Illinois 62756
217/782-9524

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Uniform Commercial Code (14 Ill. Adm. Code 190)

(1) Rulemaking:

- A) Description: The rules set forth the definition of the terms relating to the Uniform Commercial Code; the location of the office at which to file UCC documents and the business hours; the type of information available for purchase and the requirements to obtain it; and the type of payment that is acceptable.

B) Statutory Authority: Implementing and authorized by Article 9 of the Uniform Commercial Code (810 ILCS 5/9-101 et seq.)

C) Scheduled meeting/hearing date: No meetings or hearings are

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

known to be scheduled.

D) Date agency anticipates First Notice: The date of notice is unknown.

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Dale Reynolds
Department of Business Services
Office of the Secretary of State
328 Howlett Building
Springfield, Illinois 62756
217/782-9524

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Public Library Construction Grants (23 Ill Adm. Code 3060)

1) Rulemaking:

A) Description: Revise section 3060.800 to clarify the timetable for expenditure of grant funds and revise 3060.1100 to clarify the paperwork that should be submitted to the Illinois State Library.

B) Statutory Authority: Implementing Section 3 of the Capital Development Bond Act of 1972 (30 ILCS 420/3) and authorized by sections 3 and 9 of the Illinois Library System Act (75 ILCS 10/3 and 8)

C) Scheduled meeting/hearing date: A hearing will not be scheduled since only minor changes are planned.

D) Date agency anticipates First Notice: March, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Kathleen L. Bloomberg
Illinois State Library
300 South Second Street
Springfield, IL 62701-1796
217/785-0052

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

G) Related rulemaking and other pertinent information: None

i) Part(s) (Heading and Code Citation): Procedures and Standards (92 Ill. Adm. Code 1001)

(1) Rulemaking:

A) Description: The amendment would adjust and modify certain sections to accommodate changes in our current method of doing business since the rules were last revised in May of 1993. These changes will include such things as, but not be limited to: (1) Section 1001.220(3): changing the Safety Responsibility hearing regions. Due in part to the success of the mandatory insurance law, the current list of hearing regions is not currently necessary nor being utilized; (2) Section 1001.300: clarifying when a petitioner is eligible for an informal hearing; (3) Sections 1001.420(c)(3) and 1001.470: clarifying how educational RDPs are issued; (4) Sections 1001.441, 442, 443: modifications to the BAID program by clarifying certain definitions, expanding the length of the pilot program, placing security deposits in escrow; (5) Section 1001.430: revising the requirements for reinstatements for non-residents and/or who have very old DUIs as the basis of the current revocation; (6) Section 1001.440: revisions reflecting changes to DASA's rules regarding classifications, treatment, etc.

B) Statutory Authority: 625 ILCS 5/2-104

C) Scheduled meeting/hearing date: The public will have an opportunity to comment on these rules during the first notice period.

D) Date agency anticipates First Notice: This rulemaking will be proposed in the first half of the year

E) Affect on small businesses, small municipalities or not-for-profit corporations: At this time, the Department does not feel that this rulemaking will affect small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Jay Mesri
Senior Legal Advisor
Department of Administrative Hearings
Room 200, Howlett Building
Springfield, Illinois 62756

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

217/785-8237

- G) Related rulemakings and other pertinent information: At this time, the Department is not aware of any further information which may serve the public interest.

J) Part(s) (Heading and Code Citation): Procedures and Standards (92 Ill. Adm. Code 1001)

(1) Rulemaking:

- A) Description: The rule will set forth the procedures to be followed in hearings conducted under the MVR as well as those necessary for the creation and operation of the Motor Vehicle Review Board.

B) Statutory Authority: 815 ILCS 710/17, 18 22

- C) Scheduled meeting/hearing date: The public will have an opportunity to comment on these rules during the first notice period.

D) Date agency anticipates First Notice: This rulemaking will be proposed around the end of the year.

- E) Affect on small businesses, small municipalities, or not-for-profit corporations: At this time, the Department does not feel that this rulemaking will affect small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Jay Mesri
Senior Legal Advisor
Department of Administrative Hearings
Room 200, Howlett Building
Springfield, Illinois 62756
217/785-8237

- G) Related rulemakings and other pertinent information: At this time, the Department is not aware of any further information which may serve the public interest.

K) Part(s) (Heading and Code Citation): Certifications of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)

(1) Rulemaking:

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

- A) Description: Establishes rules regarding issuance of Certificates of Title for Specially Constructed Vehicles. Establishes method and reason for obtaining vehicle ownership through a mechanics lien. Prescribes rules for the Disclosure of Recuilt Vehicle Status form and rules for the issuance of Certificates of Title for salvage or flood damaged vehicles without the "rebuilt notation" or standard supporting documents. Prescribes stipulations and guidelines for distribution of collector license plates. Provides for owner to change registration classifications without paying full year registration fees, and outlines fee structure of reclassification. Revises Section 10-0.140 to include Canadian imported vehicles.

B) Statutory Authority: 625 ILCS 5/1-132, 2-104(b), and 3-100 et seq.; 770 ILCS 50/1-50/6; 770 ILCS 90/1 et seq.; 625 ILCS 3-118.1 and 5-100 et seq. as amended by P.A. 89-190; 625 ILCS 3-117.1(5), as amended by P.A. 89-685; 625 ILCS 3-109; 625 ILCS 3-629, as amended by P.A. 89-424; 625 ILCS 3-802; 625 ILCS 3-104.

C) Scheduled meeting/hearing date: Unknown

D) Date agency anticipates First Notice: Unknown

- E) Affect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Robert B. Powers
Assistant Counsel
Secretary of State's Office
Room 239, Howlett Building
Springfield, Illinois 62756
217/785-3094

G) Related rulemakings and other pertinent information: None

- L) Part(s) (Heading and Code Citation): Dealers, Wreckers, Transporters and Rebuilders (92 Ill. Adm. Code 1020)

(1) Rulemaking:

- A) Description: Provide for a process to allow removal of dash assemblies with Vehicle Identification Plate attached without a violation of 625 ILCS 5/4-103(a)(2), (a)(3) or (a)(5).

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENCY

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENCY

- B) Statutory Authority: 625 ILCS 5-2-104(b)
- C) Scheduled meeting hearing date: Unknown
- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
Robert B. Powers
Assistant Counsel
Secretary of State's Office
Room 299, Rowlett Building
Springfield, Illinois 62756
217/782-5356

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Issuance of Licenses (92 Ill. Adm. Code 1030)

(1) Rulemaking:

- A) Description: Includes certain changes to internal procedures through implementation of Motor Voter legislation. Amends restrictions added to driver's licenses. Amends and further defines procedures for vision cancellation and telescopic lens vision cancellation of driver's licenses.

B) Statutory Authority: 625 ILCS 5-6-116; 625 ILCS 5-6-103(8)

C) Scheduled meeting hearing date: None at this time.

D) Date agency anticipates First Notice: March-May, 1996

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, Illinois 62723
217/782-5356

- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citation): School Bus Driver Permit (92 Ill. Adm. Code 1035)

(1) Rulemaking:

- A) Description: Will be amending Title 92, Illinois Administrative Code, Chapter II, Section 1035, to add definitions, add to the list of offenses, and to incorporate the Federally mandated drug testing program.

B) Statutory Authority: Implementing and authorized by Public Act 88-612, effective July 1, 1995.

C) Scheduled meeting hearing date: None at this time.

D) Date agency anticipates First Notice: March, 1996

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, Illinois 62723
217/782-5356

G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)

(1) Rulemaking:

- A) Description: Eliminates the possibility of revoking a license of a commercial vehicle driver. Amends procedures relating to personal injury/fatal accident cases as prior alcohol related suspensions. Amends Problem Driver Pointer System to incorporate new definitions and penalties for fictitious and fraudulent driver's licenses, permits and identification cards.

B) Statutory Authority: 625 ILCS 5-6-201 and 6-700; 625 ILCS 5-2-104(b); 625 ILCS 6-204, 6-206, and 11-501.8

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

- C) Scheduled meeting/hearing date: None at this time.
- D) Date agency anticipates First Notice: February-April, 1996
- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.
- F) Agency contact person for information:
Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, Illinois 62723
217/782-5356

G) Related rulemakings and other pertinent information: None

P) Part(s) (Heading and Code Citation): Anti-Theft Laws and Abandoned Vehicles (92 Ill. Adm. Code 1055)

(1) Rulemaking:

A) Description: Provide stipulations under which a licensed entity may obtain title to a vehicle towed. Allows for cost of tow to be paid to towing entity.

B) Statutory Authority: 625 ILCS 5/2-104(b), 4-100. et seq., and 5-301 as amended by P.A. 89-0433, effective December 15, 1995

C) Scheduled meeting/hearing date: Unknown

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Robert B. Powers
Assistant Counsel
Secretary of State's Office
Room 298, Howlett Building
Springfield, Illinois 62756
217/785-3094

G) Related rulemakings and other pertinent information: None

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

Q) Part(s) (Heading and Code Citation): Illinois Safety & Family Responsibility Law (92 Ill. Adm. Code 1070)

(1) Rulemaking:

A) Description: Will be amending Title 92, Illinois Administrative Code, Chapter II, Section 1070, to incorporate the administrative actions to follow in the implementation of Public Act 93-92.

B) Statutory Authority: Implementing and authorized by the Illinois Safety Responsibility Law (625 ILCS 5/Ch. 7)

C) Scheduled meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: January, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, Illinois 62723
217/782-5356

G) Related rulemakings and other pertinent information: None

R) Part(s) (Heading and Code Citation): Statements of Economic Interests (New Part)

(1) Rulemaking:

A) Description: Provides that the Secretary of State may extend the deadline for filing an individual's statement of economic interests upon a showing of just cause.

B) Statutory Authority: Implementing and authorized by the Governmental Ethics Act (5 ILCS 400 4A-105)

C) Scheduled meeting/hearing date: No hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

SECRETARY OF STATE

JANUARY 1996 REGULATORY AGENDA

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JANUARY 1996 REGULATORY AGENDA

E) Affect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:
Debra Berners
Director of Index
111 East Monroe
Springfield, Illinois 62756
217/782-3645

G) Related rulemakings and other pertinent information: None

a) Part(s) (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 90 Ill. Adm. Code 1650

1) Rulemaking:

A) Description: The Teachers' Retirement System ("System") anticipates proposing amendments to several rules within Part 1650, which will clarify and explain the rules in greater detail. Additionally, new rules will be proposed dealing with recent statutory additions to Article 16 of the Illinois Pension Code. Subjects to be addressed include collection of penalty amounts for late payments, Contributor offsets, disability benefits, survivor benefits and optional service.

B) Statutory Authority: Implementing and authorized by Sections 16-136, 16-119, 16-121, 16-125, 16-127, 16-133, 16-133.2, 16-133.3, 16-133.4, 16-133.5, 16-136, 16-149, 16-149.1, 16-149.2, 16-150, 16-153.2, 15-155, 16-163 and 16-192 of the Illinois Pension Code (40 ILCS 5/16-106, 16-118, 16-121, 16-127, 16-125, 16-133, 16-133.2, 16-133.3, 16-133.4, 16-133.5, 16-136, 16-149, 16-149.1, 16-149.2, 16-150, 16-153.2, 16-155, 16-168 and 16-192), and the Freedom of Information Act (5 ILCS 140/1).

C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Name: Erin E. Smith, Legal Assistant
Address: Teachers' Retirement System
2815 West Washington, PO Box 19253
Springfield, Illinois 62794-9253
Telephone: (217) 753-0961

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEES ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 16, 1996 through January 22, 1996 and have been scheduled for review by the Committee at its February 20, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
2/29/96	State Fire Marshal, Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill Adm Code 170)	11/3/95 19 Ill Reg 15125	2/20/96
2/29/96	State Fire Marshal, Storage, Transportation, Sale and Use of Gasoline and Volatile Oils (41 Ill Adm Code 190)	11/3/95 19 Ill Reg 15139	2/20/96
3/2/96	Department of Corrections, Public Relations (20 Ill Adm Code 103)	11/17/95 19 Ill Reg 15567	2/20/96
3/2/96	Department of Public Aid, Specialized Health Care Delivery Systems (89 Ill Adm Code 146)	10/20/95 19 Ill Reg 14533	2/20/96
3/3/96	Department of Human Rights, Procedural (56 Ill Adm Code 2520)	11/13/95 19 Ill Reg 15319	2/20/96
3/6/96	Department of Employment Security, Payment of Unemployment Contributions, Interest and Penalties (56 Ill Adm Code 2765)	12/1/95 19 Ill Reg 15879	2/20/96
3/6/96	Illinois Health Care Cost Containment Council, Data Collection (77 Ill Adm Code 2510)	11/27/95 19 Ill Reg 15179	2/20/96

PROCLAMATIONS

96-1
REVEREND LEROY CROCKRITE II DAY

Whereas, LeRoy Crockrite II was born in Lynville, Illinois, the third child of the Reverend L. Roy and Mrs. Grace Crockrite; and

Whereas, after graduating from Eureka College in June of 1947, he faithfully ministered to the congregations of Lilly Christian Church, Harrisstown Christian Church and Rushville Christian Church in central Illinois; and

Whereas, he has continued in that ministry for 51 years and has served Irving Park Christian Church and the Central Church of Chicago for the past 22 years; and

Whereas, he also has given daily telephone "edifications via "Lift for Living" and has participated in radio and television ministries; and

Whereas, he has assumed an active role in welcoming new citizens through the New Citizenship Council of Metropolitan Chicago, has served on various other civic and church committees, and was honored with a lifetime membership with the Belding School PMA in Chicago for his efforts;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 17, 1995, as REVEREND LEROY CROCKRITE II DAY in Illinois in appreciation of his community service and in honor of his retirement.

Issued by the Governor December 12, 1995.
Filed by the Secretary of State January 12, 1996.

96-2

ORVETTA M. ROBINSON DAY

Whereas, Orvetta M. Robinson joined the staff of the Illinois State Museum in 1945 as a business secretary; and

Whereas, she has since served as publications proofreader, museum guide, librarian, registrar, and publications editor and she has made numerous contributions to developing and strengthening the goals and objectives of the statewide museum community; and

Whereas, her contributions to the museum profession have earned her the first Illinois Association of Museums' Lifetime Professional Achievement Award; and

Whereas, Orvetta also has worked tirelessly for the Springfield community and has given her time to organizations like the YWCA, Lincoln Memorial Gardens, the Adams Wildlife Sanctuary, the Sangamon County Historical Society and the Illinois Audubon Society; and

Whereas, her dedication to community service has led to awards such as the Sertoma Clubs' Service to Mankind Award and has earned her the reputation of never being "too busy" to help others; and

Whereas, 1995 will mark the end of her distinguished career with the museum as she retires following 50 years of service;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 14, 1995, as ORVETTA M. ROBINSON DAY in Illinois in appreciation of her service to the State of Illinois and to the community.

Issued by the Governor December 13, 1995.
Filed by the Secretary of State January 12, 1996.

96-3

PASTOR JOSEPH T. LEDWELL DAY

Whereas, Pastor Joseph T. Ledwell and his twin sister, Jeridean, were born in Asheboro, North Carolina; and

Whereas, he later married Shirley Frye in Mount Airt, North Carolina, and became the father of daughters Stephanie and Kimberly, father-in-law of Joseph Carrero and Thomas Sifner, and grandfather of Nicole, Joseph, Jordan and Justin; and

Whereas, Pastor Ledwell has received many awards including the "Man of the Year" award from the Homewood Rotary Club and the 1983 Interfaith Council for the Homeless Award; and

Whereas, some of his many accomplishments include published materials, serving as Chairman of the Human Relations Committee, and establishing the Interfaith Thanksgiving Service; and

Whereas, he is a member of several community organizations, including the Homewood Rotary, Neighbor Lodge 1169 A.F. & A.M., Scottish Rite Valley of Chicago and Medinah Temple A.A.O.N.M.S.; and

Whereas, Pastor Joseph T. Ledwell has served the Lord and his community for 30 years;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 17, 1995, as PASTOR JOSEPH T. LEDWELL DAY in Illinois in honor of his devoted service and ministry to others.

Issued by the Governor December 13, 1995.

Filed by the Secretary of State January 12, 1996.

96-4

WILLIAM R. NORWOOD DAY

Whereas, William R. Norwood, a DC-10 pilot and captain for United Airlines, has been and continues to be an active participant in numerous educational, professional and civic organizations in the State of Illinois; and

Whereas, Mr. Norwood has been an outstanding member of the Board of Trustees of Southern Illinois University since 1974; and

Whereas, Mr. Norwood served as vice-chair of the Southern Illinois University Board of Trustees during 1978-79 and Chair of the Board during 1980-82; and

Whereas, Mr. Norwood has served with distinction on the Board of the Illinois State Universities Retirement System from 1975-1995 and as Chairman of that Board from 1991-1995; and

Whereas, Mr. Norwood has demonstrated his dedication to Southern Illinois University and to the State of Illinois over the years through his official and unofficial acts of service; and

Whereas, Mr. Norwood has earned the respect and gratitude of the people of the State of Illinois for his volunteer work; and

Whereas, Mr. Norwood will soon retire from his position with United Airlines;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 14, 1995, as WILLIAM R. NORWOOD DAY in Illinois in honor of his retirement and in appreciation of his service to his community and the State of Illinois.

Issued by the Governor December 14, 1995.

Filed by the Secretary of State January 12, 1996.

96-5

MAHOMET-SEYMOUR MARCHING BUILDINGS DAY

Whereas, the Mahomet-Seymour Marching Band consists of 145 talented students and is directed by Richard Watkins; and

Whereas, the Marching Bulldogs should be proud of their commitment to their high school and community through such honors as the Governor's Trophy, the Field Show Grand Champion at the University of Illinois, as well as the 1990 winner of the Lions International Parade; and

Whereas, their dedication to their general and music education as well as extra-curricular activities should stand as a model for their peers to follow; and

Whereas, because of their talent and expertise, the Mahomet-Seymour Marching Band has been selected to march in the prestigious Tournament of Roses Parade on January 1, 1996; and

Whereas, they will be representing Illinois in the parade, serving as one of only 12 high school bands in the country to participate in the Tournament of Roses parade; and

Whereas, it is right and proper to applaud them on their selection and offer our support;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 1, 1996, as MAHOMET-SEYMOUR MARCHING BUILDINGS DAY in Illinois and offer my best wishes on behalf of the citizens of Illinois.

Issued by the Governor December 15, 1995.

Filed by the Secretary of State January 12, 1996.

96-6

A DAY FOR ANGELS: ANGELMAN SYNDROME AWARENESS DAY

Whereas, Angelman Syndrome is a genetic disorder first described by an English pediatrician, Dr. Harry Angelman, in 1965; and

Whereas, with familiarity of the disorder, more diagnoses are being made of what was not long ago thought to be an extremely rare disorder; and

Whereas, approximately 800 individuals have been identified with Angelman Syndrome in the United States and Canada and it is believed that more remain undiagnosed; and

Whereas, Angelman Syndrome is being researched by numerous professionals in order to more accurately describe its origin, physical signs and symptoms, and behavioral characteristics; and

Whereas, the Angelman Syndrome Foundation is dedicated to educating and supporting parents and professionals; and

Whereas, citizens should be made aware of Angelman Syndrome so that early diagnosis and intervention becomes a top priority;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 24, 1995, as A DAY FOR ANGELS: ANGELMAN SYNDROME AWARENESS DAY in Illinois.

Issued by the Governor December 20, 1995.

Filed by the Secretary of State January 12, 1996.

96-7

CHICAGO VETERINARY MEDICAL ASSOCIATION
100TH ANNIVERSARY WEEK

Whereas, the Chicago Veterinary Medical Association has actively participated in the dissemination of public news and information concerning animal health, the importance of veterinary care and the education of pet owners; and

Whereas, the association has stood for progress in education and development in the profession for 100 years and it offers outstanding continuing education programs to its members; and

Whereas, members of the Chicago Veterinary Medical Association, who represent more than 800 dedicated men and women in the practice of veterinary medicine, will celebrate the 100th anniversary of the association in Chicago on January 20, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 14-21, 1996 as 100TH ANNIVERSARY WEEK in Illinois and commend the Chicago Veterinary Medical Association for a century of outstanding service to its members and the public.

Issued by the Governor December 20, 1995.

Filed by the Secretary of State January 12, 1996.

96-8

OPTICIANS MONTH

Whereas, good vision contributes immeasurably to the quality of life of all our citizens; and

Whereas, 60 percent of all Americans use eyeglasses or contact lenses to augment their vision and 98 percent of Americans over the age of 65 use eyeglasses, contact lenses or some other form of vision assistance; and

Whereas, licensed or nationally certified opticians and contact lens technicians provide the products and fitting services to assure that eyewear prescriptions are accurately and expertly filled; and

Whereas, the Opticians Association of Illinois and its members contribute to the overall good vision health enjoyed by our citizens; and

Whereas, it is appropriate that we note the importance of good vision for all our citizens and the contributions of dispensing opticians in protecting and enhancing good vision; and

Whereas, the Opticians Association of America and its members have designated January 1996 as National Opticians Month;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 1996 as OPTICIANS MONTH in Illinois and encourage all citizens to participate in celebrating good vision and the role of dispensing opticians.

Issued by the Governor December 20, 1995.

Filed by the Secretary of State January 12, 1996.

96-9

CHICAGO R.E.A.C.H.

Whereas, Chicago R.E.A.C.H. was established in April 1995 in order to provide quality health care to the frail elderly of Chicago; and

Whereas, funded by the Illinois Department of Public Aid and by Medicare, the program offers complete medical care and follow-up, day care, on-staff

medical professionals, 24-hour availability of Chicago R.E.A.C.H. staff, and transportation to and from the center; and

Whereas, the program is one of its kind in Illinois and currently serves 30 frail elderly; and

Whereas, Chicago R.E.A.C.H. is committed to serving the entire city of Chicago and hopes to serve at least 100 people by the end of 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend CHICAGO R.E.A.C.H. and its staff for their efforts on behalf of the frail elderly of Chicago.

Issued by the Governor December 22, 1995.

Filed by the Secretary of State January 12, 1996.

96-10

PROJECT RED RIBBON

Whereas, drunk drivers cause millions of dollars in damage throughout the country every year; and

Whereas, during the holiday season, there is an increased opportunity for drinking and driving; and

Whereas, Project Red Ribbon is a nationwide project of Mothers Against Drunk Driving in which motorists are asked to attach a red ribbon to their automobiles as a visual reminder not to drink and drive; and

Whereas, chapters of MADD-Illinois are sponsoring Project Red Ribbon in an effort to reduce the number of drunk drivers in Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 1995 through January 1996 as PROJECT RED RIBBON in Illinois.

Issued by the Governor December 22, 1995.

Filed by the Secretary of State January 12, 1996.

96-11

ARLENA G. BROWN MONTH

Whereas, Arlena Gertrude (Miller) Brown was born to the union of Edgar and Osceola Miller 80 years ago, the last surviving child of eight children; and

Whereas, Arlena G. Brown was united in marriage to James Powell Brown on August 29, 1933, and to this union six children were born; and

Whereas, Arlena G. Brown and the late James P. Brown had six children, 21 grandchildren, 38 great-grandchildren, and still counting; and

Whereas, Arlena G. Brown is a member of Greater Walters A.M.E. Zion Church in Chicago, Illinois, has been a member for more than 60 years, has served in the choir for some 55 years, has served as the President of the Home Mission Board for 25 years and continues to serve in this capacity; and

Whereas, Arlena G. Brown worked for the State of Illinois and in the public school system until her retirement in the 1990s; and

Whereas, Arlena G. Brown continues to work diligently in her church and with her family, but is most proud of the care she gave in helping to raise her grandchildren and the care she is currently giving to help raise her great-grandchildren;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 1996 as ARLENA G. BROWN MONTH in Illinois in honor of her commitment to family, church, and community and offer my best wishes on behalf of the

citizens of Illinois.

Issued by the Governor December 27, 1995.

Filed by the Secretary of State January 12, 1996.

96-12

YOUNG PROFESSIONALS WEEK

Whereas, young professionals in our society today will increasingly continue to form the backbone of our economy and our future success; and
Whereas, young professionals have had an profound influence in many areas of government and public and private industry; and

Whereas, many young adults enter the job market uncertain of the road ahead, searching for ways to make a difference in their greater environment; and

Whereas, government and professional organizations should initiate an advocacy role for the future leaders of America;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 15-21, 1996, as YOUNG PROFESSIONALS WEEK in Illinois in honor of our young adults trying to make a difference and offer my best wishes on behalf of the citizens of Illinois.

Issued by the Governor December 27, 1995.

Filed by the Secretary of State January 12, 1996.

96-13

SALEM CHILDREN'S HOME MONTH

Whereas, Salem Children's Home is a non-profit, private child welfare agency located in rural Livingston County and supported through contributions from individuals, churches, businesses and government; and

Whereas, nearly 250 children per year are served through Salem's various residential and outreach ministries; and

Whereas, Salem is successful in treating each individual by utilizing individual treatment plans with measurable goals and tasks for complete spiritual, emotional, mental, social and physical development; and

Whereas, Salem continues to work with government agencies to ensure that rehabilitated people become productive citizens;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 1996 as SALEM CHILDREN'S HOME MONTH in Illinois in honor of its commitment to providing a better future for all citizens of this state.

Issued by the Governor December 29, 1995.

Filed by the Secretary of State January 12, 1996.

96-14

PATRICK ARBOR DAY

Whereas, Patrick H. Arbor has long been a dedicated member of his community, and his life and work have championed the cause of human rights in our society; and

Whereas, he serves on the Executive Committee of the Loyola University Board of Trustees, is a member of the Board of Regents of Chicago's Mercy Home for Boys and Girls, chairs the Home's Development Commission, and is a member of the corporate board of the Mission of Our Lady of Mercy; and

Whereas, he has further served in leadership roles as a math teacher and mayor of Harwood Heights, Illinois, and was appointed by President Clinton in 1994 to the Board of Directors of the Western New Independent States Enterprise Fund; and

Whereas, he is currently serving his second term as Chairman of the Chicago Board of Trade, a position he has held since 1991; and
Whereas, The Anti-Defamation League is presenting its Lifetime of Achievement Award to Mr. Arbor for his outstanding professional accomplishments, concern and commitment to the community; and

Whereas, it is appropriate and just to honor him for such a recognition; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 10, 1996, as PATRICK ARBOR DAY in Illinois and extend to him my best wishes for continued success on behalf of the citizens of this state.

Issued by the Governor January 2, 1996.

Filed by the Secretary of State January 12, 1996.

96-15

HOMECWOOD FIRE DEPARTMENT DAY

Whereas, firefighting in Homewood has played a significant role in the community, ensuring the safety of its nearly 20,000 residents; and

Whereas, firefighting in Homewood began as a method established by townspeople who wanted to protect their businesses from fire; and

Whereas, this method, originated by August Steiner in the 1870s, consisted of a hand drawn pumping apparatus and required the teamwork of a number of people and a nearby water source; and

Whereas, the need for a more stable means of fire prevention became apparent after makeshift buildings and fire crews were assembled; and

Whereas, on January 6, 1896, the Homewood Fire Department was established; and

Whereas, Homewood's fire prevention efforts have earned awards from the National Fire Protection Association, the National Fire Safety Council and the Chicago Association of Commerce and Industry;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 6, 1996, as HOMECWOOD FIRE DEPARTMENT DAY in Illinois in honor of its 100th anniversary and its continued service to the community.

Issued by the Governor January 3, 1996.

Filed by the Secretary of State January 12, 1996.

96-16

UNIVERSITY OF ILLINOIS COLLEGE OF MEDICINE
AT ROCKFORD COMMEMORATED

Whereas, The College of Medicine, following its establishment by the Board of Trustees in May 1971, now celebrates its 25th anniversary; and

Whereas, The College of Medicine has, in these past 25 years, provided physicians to Northern Illinois and meaningfully enhanced health care in the greater community; and

Whereas, The College of Medicine has been recognized nationally and internationally for the quality of its teaching programs and is designated as a Collaborating Centre of the World Health Organization; and

Whereas, The College of Medicine has provided both leadership and

Partnership with a broad segment of the Rockford community, working toward health for all and a betterment of the community's environment; and.

Whereas, the College of Medicine has developed successful academic programs in the health sciences, in research, and in public service;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend the University of Illinois College of Medicine at Rockford for its service to the community and offer my best wishes for continued success on behalf of the citizens of this state.

Issued by the Governor January 3, 1996.

Filed by the Secretary of State January 12, 1996.

96-17

EARTHQUAKE PREPAREDNESS WEEK

Whereas, earthquakes strike suddenly, without warning, and can devastate lives and property; and

Whereas, several active earthquake faults run through Illinois and the southernmost portion of the state is in close proximity to the New Madrid Fault; and

Whereas, the highest earthquake risk in the United States outside the west coast is along the New Madrid Fault; and

Whereas, scientists calculate that moderately strong earthquakes occur in the Central United States every 70 to 90 years. The last moderately strong earthquake struck the Midwest 100 years ago on October 31, 1895. The quake, centered in Charleston, Missouri, is estimated to have registered a magnitude of 6.8 on the Richter Scale. The scientists predict that the likelihood of a 6.0 or greater earthquake occurring in the next 15 years to be approximately 50 percent; and

Whereas, education, planning, proper building construction and preparedness are proven means to minimize earthquake losses, deaths and injuries; and

Whereas, the Illinois Emergency Management Agency (IEMA), the Central United States Earthquake Consortium (CUSEC), and the membership of the Illinois Disaster Education Action (IDEA) Committee are uniting their efforts to educate the public to the earthquake risk. Materials are provided that encourage residents to learn the steps they can take to improve their survival skills from a devastating earthquake;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 14-19, 1996, as EARTHQUAKE PREPAREDNESS WEEK in Illinois and urge all citizens to form and test earthquake preparedness plans in an effort to minimize deaths and injuries from the devastating effects of earthquakes.

Issued by the Governor January 5, 1996.

Filed by the Secretary of State January 12, 1996.

96-18

GUNNERY SERGEANT MIKE B. RUFFNER DAY

Whereas, Gunner Sergeant Mike B. Ruffner began his successful career in the United States Marine Corps on January 29, 1976; and

Whereas, upon completion of boot camp, he was sent to the School of Infantry for Military Occupational Specialty training prior to his first assignment at Headquarters Company 2nd Battalion, 2nd Marines, Camp Lejeune.

North Carolina; and

Whereas, Gunner Sergeant Ruffner has been stationed at Bridgeport, California, Camp Lejeune, North Carolina, and Okinawa, Japan; and

Whereas, Gunner Sergeant Ruffner was also part of the Special Forces Unit at Camp Lejeune, participated in Operation Sea Signal at Guantanamo Bay, Cuba, and is presently assigned as the Operations Chief and the Inspector Instructor Staff Gunner Sergeant for Chicago; and

Whereas, Gunner Sergeant Ruffner's awards include the Navy Achievement Medal, Joint Meritorious Unit Award, Navy Unit Citation, the Good Conduct Medal, 4th award, Humanitarian Service Medal, Sea Service Deployment Ribbon 5th award, National Defense Service Ribbon, and the Marine Corps Recruiting Ribbon;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 10, 1996, as GUNNERY SERGEANT MIKE B. RUFFNER DAY in Illinois in honor of his courage, his bravery and his commitment to the citizens of our state and country.

Issued by the Governor January 8, 1996.

Filed by the Secretary of State January 12, 1996.

Rules acted upon during the quarter of January 1 through March 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-7017.

PROPOSED

62-1701-5
2-2500-2 62-1761-5
2-2501-2 62-1772-5
8-281-1 62-1773-5
8-285-1 62-1774-5
8-505-1 62-1778-5
11-410R-4 62-1779-5
11-502-3 62-1780-5
14-150-5 62-1783-5
14-160-5 62-1784-5
14-170-5 62-1785-5
14-178-5 62-1795-5
14-180-5 62-1800-5
17-130-5 62-1816-5
17-1538-3 62-1817-5
20-107-1 62-1825-5
20-525-5 62-1840-5
20-801-4 62-1843-5
20-1280-1 62-1845-5
23-2700-5 62-1847-5
23-2720-5 62-1848-5
23-2730-5 62-1850-5
23-2733-5 68-800-1
23-2755-5 68-1270-3
23-2760-5 68-1295-3
23-2761-5 68-1340-3
23-2762-5 77-245-1
23-2763-5 77-250-1
23-2764-5 77-280-1
23-2765-5 77-300-1
23-2770-5 77-330-1
23-2771-5 77-340-1
23-2790-5 77-350-1
32-505-1 77-370-1
32-601-3 77-390-1
35-218-1 77-395-1
35-219-1 77-750-5
35-302-4 77-760-5
35-307-3 77-820-3
35-309-3 77-1400-1
35-310-3 80-1200-2
35-366-1 80-1210-2
47-110-3 80-2800-3
56-5300-1 80-3000-3
62-1700-5 80-1220-2

ADOPTED

83-441-3
86-100-4
86-470-2
89-112-4
89-120-3
89-140-3,4
89-312-2
89-335-2
92-1001-4
89-121-4
89-140-3
89-148-2
89-160-3
89-170-2
89-240-4
89-304-4
89-312-2
89-335-2
89-338-4
89-402-4

EMERGENCY

14-135-1
14-140-1
14-145-1
20-1280-1
56-5300-1
77-245-1
77-250-1
77-280-1
77-300-1
77-330-1
77-340-1
77-350-1
77-370-1
77-390-1
77-395-1
86-100-4
89-312-2
89-335-2
92-1001-4

PEREMPT.

89-121-5



ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF CHANGE OF ADDRESS
ALL ORDERS ARE PAYABLE IN ADVANCE OR BY VISA OR *Discover*
CHECKS AND/OR MONEY ORDERS ARE PAYABLE TO SECRETARY OF STATE

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET
__1977-1978 __1979 __1980 __1981 __1982 __1983 __1984 __1985 __1986
__1987 __1988 __1989 __1990 __1991 __1992 __1993 __1994

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 each:
__1981 __1982 __1983 __1984 __1985 __1986 __1987 __1988 __1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @\$1.00 each:
__1984 __1985 __1986 __1987 __1988 __1989

CUMULATIVE/SECTIONS AFFECTED INDICES @\$5.00 each:
__1990 __1991 __1992 __1993

BACK ISSUES OF THE ILLINOIS REGISTER (current year only) @\$10.00 each:

(Volume Number) (Issue Number) (Issue Date)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @\$290.00 (52 ISSUES)
___NEW ___RENEWAL

ANNUAL SUBSCRIPTION AND SUPPLEMENT TO THE ILLINOIS ADMINISTRATIVE CODE; PUBLISHED
QUARTERLY @\$290.00

_____ (1994 Code & 2 Supplements)	_____ (Quantity)	_____ (1995 Supplements)	_____ (Quantity)
---	---------------------	--------------------------------	---------------------

TOTAL AMOUNT OF ORDER: \$ _____

___Check ___Visa ___Discover Card Number: _____
Expiration Date: _____ Signature _____

(IF CHANGE OF ADDRESS, PLEASE LIST THE OLD AND NEW ADDRESS:

(NAME) (PLEASE TYPE OR PRINT)

(ADDRESS)

(CITY)

(STATE)

(ZIP CODE)

(TELEPHONE NUMBER)

GEORGE H. RYAN
SECRETARY OF STATE

Address:
Index Department
111 E. Monroe
Springfield, IL 62756

117